

# **Technical Assistance, Crime Prevention, Organised Crime**

Presentations at the HEUNI 25th Anniversary Symposium (January 2007)  
and  
at the Stockholm Criminology Symposium (June 2007)

Kauko Aromaa and Terhi Viljanen, editors



**HEUNI Paper No. 28**

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**The European Institute for Crime Prevention and Control,  
affiliated with the United Nations**

Helsinki, 2008

This document is available electronically from:  
<http://www.heuni.fi>

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**ISSN 1236-8245**

# Contents

<b>Foreword .....</b>	<b>7</b>
<b>Applied Knowledge: Technical Assistance to Prevent Crime and Improve Criminal Justice <i>Kuniko Ozaki</i> .....</b>	<b>9</b>
<b>Speaking Note for HEUNI 25th Birthday Event <i>Gloria Laycock</i> .....</b>	<b>11</b>
<b>HEUNI <i>Károly Bárd</i> .....</b>	<b>13</b>
<b>Ideas on How a Regional Institute Like HEUNI Could Best Promote Knowledge-Based Criminal Policy and What the Role of Member States Could Be <i>Pirkko Lahti</i> .....</b>	<b>15</b>
<b>Technical Assistance in Traditional Areas of Crime Prevention <i>Radim Bureš</i> .....</b>	<b>16</b>
<b>Developing Intelligence Led Law Enforcement - an Example from the Baltic Sea Region <i>Jaakko Christensen</i> .....</b>	<b>20</b>
<b>Prison Systems in Central and Eastern Europe: Some Areas of Continuing Concern <i>Roy Walmsley</i> .....</b>	<b>22</b>
<b>UNAFRI's Technical Assistance to Member States: Clusters of Actions, Prospects and Challenges <i>Masamba Sita</i> .....</b>	<b>26</b>
<b>Asia and Far East Examples of Technical Assistance in the Traditional Areas of Crime Prevention and Criminal Justice <i>Megumi Uryu</i> .....</b>	<b>30</b>
<b>Promotion of United Nations Standards and Norms in Crime Prevention and Criminal Justice <i>Matti Joutsen</i> .....</b>	<b>33</b>
<b>The Impact of International Standards and Guidelines on Prisoner Health in Eastern and Central Europe <i>Morag MacDonald</i> .....</b>	<b>40</b>
<b>A Mission for UNODC to Reduce Victimization by Crime <i>Irvin Waller</i> .....</b>	<b>48</b>
<b>The Divergent Organized Crime of Eastern Europe and the Soviet Successor States <i>Louise Shelley</i> .....</b>	<b>51</b>
<b>Organised Crime and its Prevention in Europe <i>Erkki Hämäläinen</i> .....</b>	<b>57</b>
<b>The European Organised Crime Threat Assessment: an Outsider's View <i>Tom Vander Beken</i> .....</b>	<b>60</b>



## FOREWORD

In 2007 two international symposia of a great significance to HEUNI took place: one was held on 22-23 January in Helsinki to celebrate the 25<sup>th</sup> Anniversary of the establishment of the Institute on 23 December 1981. The other was the second Stockholm Criminology Symposium on 4-6 June where HEUNI, again in celebration of its 25th Anniversary, took a major role in organising many workshops comprising about 50 speakers.

The present HEUNI Paper contains contributions from these events, most of them deriving from the Helsinki Symposium while the two last ones were held in Stockholm. The papers from both events deal with issues that are close to HEUNI's current working profile and to UN priorities, such as organised crime, prisons in Eastern Europe, technical assistance, crime prevention, and UN Standards and Norms related to Crime and Criminal Justice.





# Applied Knowledge: Technical Assistance to Prevent Crime and Improve Criminal Justice

Kuniko Ozaki, Director,  
Division for Treaty Affairs/UNODC

It is my pleasure to represent the United Nations Office on Drugs and Crime at this international symposium marking the 25<sup>th</sup> anniversary of the founding of the European Institute for Crime Prevention and Control, affiliated with the United Nations. Congratulations and best wishes from the head of UNODC, Antonio Maria Costa, on your silver jubilee. He was not able to participate in this meeting, but I am happy to represent the Office at this event, especially in my capacity as a member of HEUNI's International Advisory Board.

Since 1981 – when HEUNI was established by an agreement between Finland and the United Nations – the Institute has worked closely with the UN, enriching its work on crime prevention and criminal justice. This symposium is the latest example.

I would like to say a few words on the topic of this meeting, namely technical assistance in crime prevention and criminal justice.

The magnitude of global challenges relating to drugs, crime and terrorism is prompting States to seek greater use of multilateral partnerships. In the past five years, UN-brokered conventions against corruption and trans-national organized crime have come into force. Now UNODC is the custodian of five international conventions and three protocols on drugs, crime and corruption, as well as a number of international standards and norms on drugs, crime prevention and criminal justice. Furthermore, the Office has a key role in the UN's action to prevent and counter terrorism.

The key to the effectiveness of these legal instruments is their implementation. An important aspect is peer review, for example through the two Conferences of State Parties that have been set up in order to promote and review the implementation of the Conventions on organized crime and corruption.

Another forum for peer review is the Commission on Crime Prevention and Criminal Justice. One of the main issues of the 2007 session is to be crime prevention and criminal justice responses to urban crime, including gang-related activities. This is an issue that deserves serious attention before crime turns major cities into failing cities. I urge HEUNI and other institutes of the UN Crime Prevention and Criminal Justice Programme Network to actively contribute to finding appropriate responses to this serious challenge.

The Network – which presently consists of 15 institutions around the world – has an important role to play in helping states turn their good intentions into practice. We need more information on “best practices”, more training of national experts, and more information on crime trends. Over the past quarter century, HEUNI has built up a reputation in these areas. Your expertise and support are vital, and your input – for example at Crime Commissions and Congresses – is appreciated.

For its part, UNODC certainly has a key role to play in providing technical assistance in the field of criminal justice. We provide legal advice to help states ratify relevant international instruments and we help them draft or revise their legal codes and structures in order to enable them to apply these instruments domestically. We do this through regional meetings of technical experts, or one on one at the national level.

We have prepared model legislation, for example a Model Treaty on Extradition or a Model Treaty on Mutual Assistance in Criminal Matters. We help States to strengthen their anti-corruption and anti-money laundering measures, or to improve juvenile justice, or prison reform. We train criminal justice practitioners to ensure that they are better equipped to provide restorative justice, protect victims, or to run drug

treatment courts. And we encourage regional and international cooperation to fight trans-national threats.

Every State has its own unique challenges. Before providing assistance, you need to know what is needed. UNODC – together with the Organization for Security and Cooperation in Europe – has therefore produced a Criminal Justice Assessment Toolkit. This should be a big help to practitioners in the field assessing policing, access to justice, and custodial and non-custodial measures.

Indeed, UNODC experts have carried out such assessments in countries as diverse as Afghanistan, Haiti and Liberia.

While every case is different, solutions should be based on common international standards and norms. That is why UNODC has recently published a compendium of United Nations standards and norms in crime prevention and criminal justice – the first time such a book has been published since 1992. I know that this is a subject close to your hearts and we can certainly make copies available to you.

Your work is vital in helping us and Member States to implement these norms and standards. You play a key role in analyzing how states are living up to these standards. The Institute's analysis of questionnaires and surveys contribute to an evidence based approach to crime prevention.

Still, as Mr. Costa likes to say, when it comes to measuring international crime trends, we are flying through a statistical fog. There is almost no data available on crime: is it increasing or not? What comparisons can be made among countries? What forms of crime are greater threats than others, and why? We need a better methodology for measuring crime and we need more data. A working group of the TOC Conference of the Parties has now taken up this issue.

HEUNI is a recognized leader in the field of crime analysis and, together with other Institutes in the Network, can help fill in blanks in the knowledge of

the international community. You are in the unique position of being able to apply independent expert advice on methodology and analysis for improving the world's ability to, for example, track the extent of human trafficking, or measure corruption. We need your analytical brains to help us have a better understanding of these contemporary challenges. Your years of experience can help States deal with issues that are a relatively new domain for international relations.

In closing, I would again like to congratulate HEUNI on its 25<sup>th</sup> birthday and we look forward to close cooperation in the next quarter century.

## Speaking Note for HEUNI 25<sup>TH</sup> Birthday Event

Gloria Laycock, Director  
University College London,  
Jill Dando Institute of Crime Science, UK

This is a highly personal view based upon my knowledge of HEUNI over some time but also a more intimate picture over the past almost five years that I have been privileged to be on the HEUNI Board.

I have divided my short talk into four sections:

1. What HEUNI does well
2. What HEUNI does not do so well
3. Why not?
4. What may be needed for the future?

### What HEUNI does well

We are celebrating the 25<sup>th</sup> birthday of HEUNI so we can certainly conclude that one of the things it does well is survive! This is not a trivial achievement in what is essentially a hostile environment for crime prevention research and development.

HEUNI also maintains a high profile not only across the European Union but on a wider scale. It has generated a substantial research agenda over many years and is the only source of comparative information on the criminal justice systems of a wide range of countries.

HEUNI staff are also very visible at conferences, meetings, symposia and a variety of congresses across the world. They make a valuable contribution to the discussions, to the development of ideas and to the dissemination of research.

### What HEUNI does not do so well

For very understandable reasons, the generosity of the Finnish and Swedish Governments in supporting

HEUNI is limited, and if HEUNI is to broaden its agenda and increase its capacity then further resources need to be found. There is, unfortunately, something of a vicious circle here – finding the time to bid for money without the staff to do so means that the pool of staff stays small. There is no spare capacity for the additional investment that is required. This is a problem by no means unique to HEUNI – it is common throughout the research community. Partly because of this funding regime HEUNI is heavily dependent upon the ad hoc opportunities that arise to carry out research or to contribute to the development of crime prevention policy. A consequence of this is that it is difficult for staff to pursue their own research ideas or to further develop work that has already been commissioned.

One of my constant comments is the time it takes to complete projects. They sometimes seem to sit on the HEUNI agenda for many years before a final publication materialises. I make a point of saying that this is not a criticism because it seems to me that there is often little that the staff of HEUNI can do to solve the problem. They are heavily dependent upon the provision of information from other jurisdictions and although we all claim an interest in the work of colleagues elsewhere, and of hearing about good practice, we are not quite so keen on providing information in a timely fashion.

### Why not?

I feel that one of the major difficulties faced by HEUNI is a lack of a secure financial base; as an organisation it is heavily dependent upon a single source of funds from the Finnish Government. Over the past 25 years this funding source has continued but it may not do so forever. It would be wise if HEUNI were to try to

diversify its funding across a wider range of organisations, ideally seeking 'core' funds rather than project-specific money linked closely to the production of a particular piece of work. This would free up staff time to bid for research money as it becomes available or to pursue a greater range of self-initiated research.

### **What may be needed for the future?**

The strategic direction of HEUNI over the coming years needs to be specifically considered. Should the aim be to expand or maintain a steady state? What are the implications for HEUNI of the enlarged EU? What about the emergence of the Russian Federation – are there any additional implications or opportunities presented by these developments? Would it make sense for HEUNI to attempt a fund raising exercise across some of the key members of the EU, seeking a small amount of core funds from each which, in aggregation, might make a significant difference to the work of the Institute? These are challenging questions but after 25 successful years perhaps the time is right to address them.

## HEUNI

Károly Bárd, Professor  
Central European University, Budapest, Hungary

Let me take a historical perspective and start with the thesis: the profile of any organization is shaped to a large extent by the personality of the head of that organization. The impact of the director's personality is even stronger if the organization is small and operating with limited staff and resources as it is the case with HEUNI. And in fact the profile, the perception and self-perception of the Institute was to a significant extent determined by the skills and the preferences of its directors.

It started with Inkeri Anttila, an emblematic figure in criminology, a proponent of a sober criminal policy and neo-classicism, a representative of "European" criminal law. By the latter I mean criminal law and criminal policy that find their origins in the ideas of the Enlightenment, in rationalism and also romanticism in its positive formulation in that it accepts diversity and the uniqueness of each individual as long as this does not jeopardize commonly accepted moral values. The criminal law envisaged by Inkeri is humane in that it tries to avoid the infliction of unreasonable and unnecessary pain, and it is rational in that it is aware of its inherent limitations. During Inkeri's reign HEUNI became a European criminal policy center elaborating with the involvement of the most outstanding experts of the region the standards of a humane and rational criminal justice system.

Then became Matti Joutsen, a key figure of the entire UN network, a skillful negotiator and master in drafting international treaties and other types of documents. Under his directorship HEUNI became one of the most influential actors at the UN Congresses and in all UN bodies responsible for the preparation or the implementation of the Congress resolutions.

The current director Kauko Aromaa is one of the most outstanding representatives of applied, practice oriented criminology. At present HEUNI is an Institute

running or leading projects of innovative nature attractive also for political decision-makers. These are projects that help us explain and give solutions to problems which affect our every day life, be it product safety, transnational organized crime, or the unbiased, impartial functioning of the administration of justice—all related to the operation of a market economy.

But the directors' personality, even in the case of such a small institution as HEUNI, is but one of the determinants. Also "external" factors have significantly shaped the Institute's profile. During the "cold war" HEUNI offered a forum for dialogue between East and West. The location of the institute was perfect not simply geographically but also due that the welfare values much more preferred by the Nordic countries than in the rest of the Western world were not that distant from the values, like solidarity or equality, the socialist countries proclaimed but never respected in practice. Thus HEUNI was to serve as a mediator between West and East and the working methods were designed in line with the mission: the Institute brought people together, the conferences and seminars were all-European events. There was little room for bilateral cooperation, the two parts of Europe were seen as blocks. Thus the appropriate forum was the all-European seminar; in fact the 80's was marked by the great conferences attended by a huge number of people addressing the most burning challenges the criminal justice systems of the continent were faced with: how to design a rational, humane and at the same time effective and simple criminal justice system which pays due attention to the interests of victims without jeopardizing the due process rights of defendants—to mention but one of those challenges. HEUNI at that time operated as a kind of European institute for comparative criminal justice. It provided a forum to everyone to present his/her country's preferences and we learned a lot. But in spite of its openness to all kinds of ideas HEUNI also transmitted the values of

Nordic criminal policy which I must admit are close to my heart.

We Eastern Europeans who happened to be born in the less fortunate part of the region were particularly grateful to HEUNI for bringing us together with our colleagues from the other part of Europe. Let us be honest: in the old days scholars from our region were seen as second class experts. True colleagues from the “West” politely reassured us all the time that that they learned much from the encounters with us but apart from a few “Ostrechtler” who came to visit the ex-communist countries, not for gaining intellectual impetus but rather to collect empirical material for their research it was rather the Eastern Europeans who were eager to get scholarships at institutions in Western Europe, it was us who were searching for opportunities to visit libraries in the richer part of the continent. And HEUNI helped us a lot through the short term internships, offering consultancy work and through bringing us together with the most outstanding scholars from the “West”.

And I am wondering whether the rationales for HEUNI’s establishment in 1982 are non-existent anymore ? Has the mission the Institute has accomplished in the first decade following its setting up become obsolete ? I am afraid not, this mission still has its justification. It is not the entire Eastern block anymore that is in need of massive intellectual support but there are still states in Europe, which are outside the main stream. These are the countries that have very slight chances to become members of the European Union in the decades to come. And as to the Nordic values I am afraid that perhaps there is even more need to keep them alive today than it was the case at the time of HEUNI’s creation.



# Ideas on How a Regional Institute Like HEUNI Could Best Promote Knowledge-Based Criminal Policy and What the Role of Member States Could Be

Pirkko Lahti,  
Member of HEUNI's International Advisory Board,  
Helsinki, Finland

## The Role of HEUNI

HEUNI is a fact-oriented institute. It is collecting information and reporting results. It is a well valued institute both in Finland and in Europe. It is known all over the world in the area of criminal policy and criminology. HEUNI is surprisingly effective although its staff and resources are not very big.

When some institute is fact- or knowledge-oriented, it is taking responsibility only of that information or knowledge, what it is offering. This is the typical way how an institute producing sectorized knowledge acts. It is the rule to keep to the information, that is collected and not to go further in the interpretations. The very much interesting question is, who is using the information we are getting from different institutes. Who has the whole picture? I believe, in many cases it is the amateur- politician, who is trying to put together all of the given information. Right or wrong?

Because the society is moving towards a fact oriented world, the basic question everywhere is, what kind information is needed. I take an example from crime prevention: it is not enough to know crimes, figures, types etc. but crime prevention is something much broader including eg. living, housing, work situation, money etc. Who is giving information of those issues and who can bind this information to crime?

## How to influence

What is influence: is it lots of publicity, lots of publications or is it possibilities to change laws or thinking?

The effectiveness is often measured by figures, so and so many books, speeches, references in media.

These are some kind of measurements, but it is not really telling about the effectiveness. It is easy to show that people are reading papers or listening to speeches, but these do not influence their behaviour or thinking. There is a big need to find measurements of the effectiveness and influencing. These measurements should be discussed broadly and ways should be found how to follow what is happening if e.g. some publications with discussions in media have had any influence.

## HEUNI 25 years

It is time to go back to the basics and ask what kind of knowledge is needed e.g. for crime prevention. Then we should look through HEUNI's work programme and see what part of the needed information is available from HEUNI, what are the longrunning programmes and the need for acute programs.

There is a big need to write HEUNI's strategical programme with vision and goals. What should HEUNI be in year 2010, its role at European / world level etc. It should also include ideas for budgeting old and new programs. The role of the Advisory Board, as well as its composition should be part of the strategical thinking. This clear picture of the Institute should help HEUNI make decisions regarding the programmes and projects as well the yearly running educational work.

# Technical Assistance in Traditional Areas of Crime Prevention

Radim Bureš, Deputy Director,  
Crime Prevention Department,  
Ministry of Interior, Prag, Czech Republic

## 1. Technical assistance can work

We can take an example of the Czech Republic.

### Technical assistance in developing crime prevention methods

The Czech Republic started its crime prevention programme in 1996. In 1997 we launched a technical assistance project with the United Kingdom under Know-How-Fund. The objective of the project was British assistance to the Czech Ministry of Interior and Czech Police in developing methods for preventive work already applied by the British police. During the project UK specialists visited several times the Czech Republic for fact-finding missions and for trainings. UK has been visited twice by the Czech delegation. The first high level Czech delegation led by the Deputy Minister visited the Home Office and the Crime Prevention College in Easingwold to learn about strategic issues - the system and management of crime prevention. The second delegation was composed of police specialists and its program was focused on acquiring concrete methods immediately applicable at police work. The project was complemented by the supply of literature. This project helped to establish the crime prevention approach within the police and the whole country and helped to start preventive projects and activities. The advantage of the project was its wide scope covering both policy making and supporting new initiatives on the local level. It is also worthwhile to add that the results of the project were not visible immediately and it started to fully show the results only two or three years later.

### Important lesson to be learned:

Governmental policy and local initiatives are two inseparable sides of effective crime prevention. Effective technical assistance project should cover both of these sides.

### Technical assistance in criminal justice reforms

In 1997 and 1999 a high level Czech delegation was invited to the USA under a State Department grant managed by Florida State University School of Criminology. The aim of the visit was to study the criminal justice system in the US and see examples of progressive methods of policing in several US cities. The Czech delegation was composed inter alia of the Deputy Minister of Interior, the Police President, the Attorney General and a Supreme Court Justice. Almost all of the participants played in their further career an outstanding role in policing and the criminal justice apparatus in the Czech Republic. An independent evaluation would have hardly found any concrete impact of the project in a short term after its termination. In a longer perspective an insider could detect a number of important developments which can be assigned to the ideas acquired through the project. Some ideas appeared in a new penal code and a code of penal procedures, namely strengthening the criminal process during the trial and proofing before the court. Police had fundamentally opened itself to the public and started to inform the public about itself and about the local crime situation. Some new ideas like the Centre for early intervention for juvenile delinquents were developed. On the other hand community policing methods only gradually started to be supported in the country and the development of this method was much slower than one might have expected. It might be concluded that one of the reasons of slower



implementation of community policing is that nobody from grass root level who may have started local initiatives was involved in the project.

### **Important lessons to be learned:**

Careful selection of the target group is essential for the further impact of the project. It means not only to select leaders or potential leaders who can exert influence or decide on reforms and changes. Especially in the area of traditional crime prevention including community policing some of those responsible for implementing of projects at the local level should be included in the target group.

Second lesson: technical assistance projects in crime prevention and related areas hardly bring visible results in short time. Any evaluation should keep this time lag in mind.

### **Technical assistance in prevention of human trafficking**

Finally between 2001 and 2004 a rather extensive project focusing on developing and enhancing country response to human trafficking has been implemented in the Czech Republic. The project was prepared and financed by the UNODC. Also this project covered a whole range of activities starting from drafting the national strategy through research up to setting of referral mechanism and supporting work of local NGO's. Providing financial support was not the most important part of the project. The most important part of the project was that it provided an independent platform for partnership of civil servants, police and NGO's. There was also a long time gap between signing the contract and starting the supported activities due to the delay of payment clearance. During this period project partners met regularly and started working together. When the project activities finally officially started, a number of goals had been already achieved. This project helped to establish the governmental policy towards human trafficking including prevention and assistance to victims.

### **Important lesson to be learned:**

Financial support need not to be the most important part of the project. It may be targeted to fill clear identified gaps. Developing of the broad supporting coalitions seems to be an important factor enhancing achieving project objectives. Preparatory phases based on close discussion between recipient and donor are also very important for the success of the project.

All these three examples show that technical assistance in the area of traditional crime prevention is possible and can be effective.

*(The author would like to use this opportunity to acknowledge leaders of above mentioned projects: Jack Acton from the U.K., Anthony Pate from the USA and Kristiina Kangaspunta from the UNODC)*

## **2. Difficulties in implementation of technical assistance in traditional areas of crime prevention**

When saying that technical assistance can be effective we must also pay attention to the number of difficulties and obstacles we meet when implementing projects in traditional crime prevention.

### **Selecting and determining target groups**

On the contrary to many (if not all) other areas of criminal justice there are two very different target groups for technical assistance.

First there are state administration bodies responsible for policy making and setting up necessary infrastructure for crime prevention. Governmental officials, decisions makers and senior police commanders are those who fall within this group. This is the right target group for instructing about the role of different agents in crime prevention, about partnership, need of research, need of co-ordination bodies, need of financial support and its sustainability. They can be informed about the importance of the preventive

approach to crime, they can set objectives and targets, and they can establish both implementation and coordination structures. They decide on the way of financial supporting of crime prevention activities.

This target group is also preferable from the donor side in project developing. Members of this group are easily identifiable and approachable, they speak foreign languages, often they are able or used to work easily in international environment.

However, they may have limited powers and abilities to initiate locally based projects. The experience of the Czech Republic before 1996 shows the situation when the National Council had been established, policy documents had been drawn but on the local level almost nothing happened.

Rather different is the other group of those implementing local projects. These are local people, elected representatives of local self-government, local administration civil servants, social services staff or local NGOs, who have knowledge and enthusiasm to start crime prevention project but may not have enough knowledge of appropriate methods. This group is much less preferable as a target group for a project. Its members are difficult to identify and to select from hundreds of different municipalities. They do not speak foreign languages, the international environment is not familiar to them, they may not be customised to the level of generality used in trainings, and they may require basic detailed information about the implementation of different crime prevention methods. But when this group of people is carefully selected for the project they may become necessary sparking elements at the local level that can spread preventive know-how in the country in a snow ball effect.

### **Profound knowledge of the recipient country**

The quality of the advice or training and its impact depends a lot on tradition and structure of state administration in the recipient country. In a number of

countries there are strict differences between state administration and local self-government. It was also the case in the Czech Republic until the year 2000. State administration works on strict rules and clear chain of command. One can expect more or less fast implementation of instructions but can not expect too much initiative. However, community based crime prevention heavily depends on local initiative. Locally elected councils are much more sensitive to security needs of citizens and they are also much more aware the local security situation and its problems. Often local self-governments are not very responsive to government initiatives and instruction.

Technical assistance in crime prevention should take into account this specific position of two major players in crime prevention - government and local self-government – and try to find approaches satisfying both. Part of the deal should be the issue of financing crime prevention projects when the external sources would dry up.

### **Recipient of donor driven technical assistance**

All discourses about technical assistance speak about the necessity of technical assistance being driven by the recipient. The task is not so simple. In a number of cases the demand is not articulated well enough. The situation can be easier in more technical areas of technical assistance, say in waste management. In societal changes and the whole area of responding to crime the situation is much more difficult. Senior officials may not be aware of the need of adopting crime prevention measures.

Part of the project may be focused on developing understanding the recipient's own needs. It should be acknowledged that such a long preparatory phase may not fit to the strict donor time table.

Important tools to “developing needs” are the UN standards and norms and CCPCJ and ECOSOC resolutions. These documents create visions of what should be done in different areas of crime prevention

and criminal justice. In the area of traditional crime prevention there are two leading documents: “Guidelines for co-operation and technical assistance in the field of urban crime prevention, adopted by ECOSOC Resolution 9/1995 and “Guidelines for the prevention of crime” adopted by the ECOSOC as Resolution 13/2002. These two documents together with the instrument of collecting information on implementation of the latter set the necessary and fully valid framework in which the technical assistance in traditional crime prevention can be developed.

## Developing Intelligence Led Law Enforcement – an Example from the Baltic Sea Region

Jaakko Christensen, Senior Detective Superintendent,  
NBI, Vantaa, Finland

The importance of criminal intelligence work has become ever more evident as crime, especially organised crime and terrorist groups, is increasingly professional, international and versatile in nature e.g. through the criminal use of ICT and through an increased freedom of movement - also for criminals. Furthermore, the ever changing modus operandi and the threat of counter measures that organised and other serious crime groups develop as a response to law enforcement efforts should not be underestimated and is a further reason for developing the intelligence gathering and assessment capacities of law enforcement authorities.

Criminal intelligence cooperation is especially important in the international context. In a global society criminal elements have few boundaries, both in the visible and in the virtual environment, unlike those limiting law enforcement cooperation such as legal, geographic and language barriers as well as a formalistic method for cooperation and exchange of information.

Criminal intelligence is an important ingredient in the correct allocation and use of resources. A well functioning and real-time information gathering process, accurate analysis and valid threat assessments are pivotal to the strategic decision making process of law enforcement authorities.

Intelligence led policing - and more widely intelligence led law enforcement (ILLE) - is a comprehensive concept for a structured information process in modern law enforcement. As such, the concept of using intelligence for decision making is not a novelty. However, formalising intelligence gathering and analyses for operational and strategic decision making is. A few examples that have been in the forefront of this development are the “Compstat” model developed by the NYPD in the mid-90s and the

“National Criminal Intelligence Model” of the UK. Building upon these ideas the European Union has also launched the European Criminal Intelligence Model – ECIM which can and has been applied also on a more regional level e.g. the Baltic Sea Region.

The Task Force on Organised Crime in the Baltic Sea Region was set up by the Heads of Government of the Baltic Sea States in 1996 at the first summit held in Visby, Sweden due to an *“urgent need for direct and concerted action to combat organised crime”*.

The Task Force plans and carries out co-operation between its members with support of its most active partners Interpol, Europol and the World Customs Organisation in fulfilling the mandate of preventing and combating organised crime by improving and enhancing the exchange of information, initiating and implementing concrete operations and co-operation in judicial matters as well as in training and research.

The Task Force, which consists of the Personal Representatives of the Heads of Government, is the supreme political steering body, which meets twice annually to evaluate work under its auspices and especially of the Operative Committee (OPC) which is responsible for coordinating law enforcement co-operation. The OPC which consists of representatives from the police, customs, border guard and prosecution authorities meets every two to three months. It proposes joint measures, carries responsibility for the implementation of operations and serves as a multidisciplinary expert body in operational matters.

With the experiences of the Task Force in mind, the writer proposes two subjects for which technical assistance should be considered:

### **1. Project based, target oriented multidisciplinary law enforcement co-operation**

Best practice examples of police, customs and border guard co-operation, such as the Finnish Police-Customs-Border Guard Joint Criminal Intelligence and Analysis Centre(s) on a national level and the Baltic Sea Task Force on a regional level, could be exploited and presented as models for further development.

### **2. Criminal intelligence process or “intelligence cycle” as an ingredient of ILLE**

Technical assistance in developing a law enforcement concept and structure which will repeatedly and in a consistent manner process information using the concept of intelligence led law enforcement for better decision making could be an area of technical assistance for which there is undoubtedly “a market” but also one for which few deliver technical assistance on an international level.

## Prison Systems in Central and Eastern Europe: Some Areas of Continuing Concern

Roy Walmsley, Associate of the International Centre  
for Prison Studies, King's College,  
London, UK

It is an honour to have been asked to participate in this symposium, which celebrates 25 years of HEUNI's work. I am a great admirer of the role that HEUNI has played in drawing attention to crime prevention and control issues especially in central and eastern Europe. For much of these 25 years the situation in central and eastern Europe in respect of crime and criminal justice has not been well known in the rest of this continent and beyond, but HEUNI's vision and persistence and the initiatives it has taken have ensured that much has been done to fill that gap in knowledge. And increased knowledge has created the opportunities for technical assistance in some of the areas of need.

My collaboration with HEUNI has focused principally on developments in the prison systems of central and eastern Europe. Initially I looked at the situation in 1994, soon after the historic political changes in the region in the period 1989-91, and I then revisited the same issues seven years later in 2001. In this short contribution this morning I will draw attention to some of the main areas of continuing concern in the development of these prison systems, the areas in which technical assistance is most required.

But first I want to make an important point. As we all know, in the 15 or so years since the political changes there has been enormous progress in almost all these countries. Their adherence to democratic values and the rule of law has been recognised by their acceptance as members of the Council of Europe and their economic and political development by the admission already of about half the countries into the European Union. Unsurprisingly, such progress has similarly been seen in the management and treatment of prisoners. Although there are many areas where further progress is needed, this is not something that distinguishes these countries from the rest of Europe. The problems faced today by the prison systems in the

Czech Republic, in Hungary and in Poland for example are mirrored in problems in France, Italy, Spain and Britain. The situation at the eastern end of Europe, especially in some of the countries of the former Soviet Union and one or two others, is different in degree, but increasingly this is a problem more of resources than of objectives and attitudes.

I will say a few words about seven areas of continuing concern:

- the numbers held in the prisons;
- the conditions of pre-trial detention;
- the limited resources available;
- the shortage of non-custodial alternatives to imprisonment;
- staff recruitment and retention, and staff training;
- the constructive use of prisoners' time; and
- health care in the prisons.

### The numbers held in the prisons

Prison populations in central and eastern Europe are generally higher than in the rest of Europe, though they are no higher in the countries of the former Yugoslavia and Albania. Many prisons are crowded and therefore are faced with all the problems that this causes. Nevertheless several countries of the region have been successful in bringing down their numbers, including Armenia, Belarus, Latvia, Lithuania, Romania, the Russian Federation and Ukraine. In almost all of these, however, prison populations remain well above the levels in the rest of Europe and the Russian figures have been climbing again in the last two years. Other countries too are keen to reduce their numbers and can benefit from lessons learned by those that have



been successful in doing so and by comparing their practice with those of other countries with much lower rates.

### **The conditions of pre-trial detention**

The conditions of pre-trial detention are frequently inadequate. The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the CPT) regularly draws attention to insufficient space in such facilities, and in general too many people are placed in pre-trial detention, they stay there too long and the regime they experience there is very limited. The international standards emphasise that pre-trial detention should be used sparingly, for as short a time as possible and that detainees should have a constructive regime, but sadly this often does not happen. A new 2006 Council of Europe Recommendation gives further guidance on what is required, reflecting the fact that pre-trial detainees must be regarded as innocent until they are proved guilty and must be treated in such a way as reflects that status. In most countries of central and eastern Europe they are only allowed out of their cells for an hour a day whereas the CPT recommends that they should be allowed to spend at least eight hours outside their cells engaged in purposeful activities of a varied kind. Ways of reducing the use and length of pre-trial detention and improving the conditions are now well-known and advice and assistance are available from countries that have already succeeded in making such changes.

### **The limited resources available**

I don't suppose there is a prison administration in Europe that feels that its government provides it with sufficient resources for the task it is required to carry out. Nevertheless resources are particularly inadequate in some countries of the former Soviet Union and one or two others also. Prison systems are in serious difficulties when they cannot easily pay staff salaries, feed prisoners a sufficient and balanced diet and guarantee a good standard of health care. But when

economic conditions in a country are extremely unfavourable it is not easy to persuade the government to devote extra resources to ensuring that the prisons are being properly managed. However, that is the responsibility that they have. The CPT puts much pressure on governments to improve practice by emphasising specific deficiencies in their reports. Each has signed up to the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and so is publicly accountable for any failure to respond to CPT recommendations in respect of the improvement of standards.

### **The shortage of non-custodial alternatives to imprisonment**

One of the traditional reasons for comparatively high levels of imprisonment in central and eastern Europe was the shortage of non-custodial alternatives available to sentencers. This is an area in which there has been much activity in recent years. Provision for offenders to be supervised in the community is now increasing, and also for the introduction of community service. But there is a long way to go before such measures are available throughout central and eastern Europe, are accepted by courts as measures that actually do enable them to reduce the number of prison sentences imposed, and are carried out with the expertise that has been acquired in some European countries. Supervision in the community (probation or whatever individual countries choose to call it) is not a cheap option, although it is less costly than imprisonment, and community service requires good administrative support. Such measures are much needed and have the potential to contribute to significant reductions in the levels of imprisonment and overcrowding.

### **Staff recruitment and retention, and staff training**

Prison administrations generally do not find staff recruitment difficult, except in the case of specialist staff responsible for treatment and for health care, and in cities with low unemployment levels. However,

retaining staff is more difficult: there is quite a large annual turnover in several countries. Vacancy levels are often quite high, sometimes as a result of a policy to economise on staff costs rather than because of recruitment problems. The difficulty of appointing sufficient treatment and health care staff is often a result of prison service salaries being inferior to those that such specialists could earn in the community outside. This is another area where prison administrations can benefit from consultation with colleagues in other prison systems. So is staff training, which has been recognised as in need of considerable attention, and which has been the focus of much technical assistance in recent years.

### **The constructive use of prisoners' time**

In recent years there have been many initiatives to bring about a more constructive use of prisoners' time, for example by improving treatment programmes, by enhancing the scale and nature of regime activities and by paying special attention to preparing prisoners for release. But there is much scope for further progress in this area. In many prisons in parts of central and eastern Europe there are no treatment programmes available, there are very few organised activities of any kind, and the staff responsible for treatment (the case managers, educators or detachment chiefs) have to deal with as many as 100 prisoners, whereas it is widely accepted that 50 should be the absolute maximum. Frequently more than half the sentenced prisoners have no work despite the strong belief in this part of Europe that employment is one of the most important ways of ensuring that they leave the prison able to cope with outside life at least as well as they could before they came into custody. Sadly there are also many prisons where there are no pre-release programmes and little is done to prepare men and women during the last weeks of their sentences. Technical assistance is needed in connection with all these aspects of prison life.

### **Health care in the prisons**

As in other areas, the progress made in health care in the prison systems of central and eastern Europe is considerable. Nonetheless, much more needs to be done to ensure that there are sufficient medical staff in the prisons and, in some countries, to ensure that there are sufficient medicines. There also need to be more treatment programmes for those addicted to alcohol and drugs, there needs to be more psychiatric support and much needs to be done in respect of HIV/Aids - to improve staff and prisoner education in respect of the disease in order to minimise risky behaviour, to enable voluntary screening and to ensure the confidentiality of results, to guarantee the counselling of HIV positive prisoners, and to counter misinformed anxieties and reactions aroused by this disease. The Council of Europe has arranged for health care assessments in a number of prison systems in the region and voluntary organisations have organised individual projects, even including the transport of medicines across Europe to prisons in particular need. However, as CPT reports underline, there are still many deficiencies and a continuing requirement for technical assistance in a large number of aspects of prison health care.

### **Conclusion**

As I have indicated, technical assistance in prison matters that are of continuing concern can valuably be obtained from consultation with other European countries which have found ways of dealing with similar problems.

Another means of providing assistance is through seminars. The Council of Europe has organised a number of these in central and eastern Europe, focusing on just such topics as those to which I've drawn attention. Bringing in experts on particular topics can be extremely helpful. There would be an advantage in organising more seminars on a regional basis to provide assistance to several countries at a time. [This is especially appropriate and economical if the different



countries can use a common language, as in the former Soviet Union and former Yugoslavia.]

Much bi-lateral help has also been given in prison matters and there have also been projects organised by international aid agencies and non-governmental bodies such as Penal Reform International.

Assistance can also be provided through documentation. Apart from full length assessment reports by the Council of Europe and HEUNI, I would particularly like to mention two publications that come from the International Centre for Prison Studies at King's College, London, where I am an Associate. One is a handbook for prison staff entitled 'A Human Rights Approach to Prison Management', which aims to present the universally agreed standards on prison reform in the form of practical guidance for prison staff. The other is a pack of guidance notes on prison reform focusing on many aspects of prison management. They aim to strike a balance between identifying general principles and providing practical examples. Both documents are available in several languages.

In the time allocated to me I have tried to draw attention to some of the key areas of continuing concern in respect of the prison systems, and to indicate that, despite the great progress that has been made by the prison administrations, and help that has been received, much remains to be done. Technical assistance will have an important contribution to make.

I will end by repeating that many of the problems of prison systems in central and eastern Europe are present also in prison systems in the rest of the continent. I would stress overcrowding and the conditions of pre-trial detention as two of the most important. The requirement is for continuing improvement in all the prison systems of Europe.

# **UNAFRI'S Technical Assistance to Member States: *Clusters of Actions, Prospects and Challenges***

Masamba Sita, Director,  
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## **Introduction**

UNAFRI, like its sister regional Institutes HEUNI, ILANUD and UNAFEI, is mandated, inter alia, to promote the United Nations Crime Programme in Africa. UNAFRI is a vital regional mechanism to coordinate regional cooperation and harmonise the provision of needed technical assistance through tailored activities in the field of Crime Prevention and Criminal Justice Systems in Africa. As the window of United Nations Crime Prevention strategies and framework to Africa, the Institute derives its legitimacy for its operations from the needs of Member States in crime prevention, particularly as crime has been noted to be a major impediment to sustained social development.

Areas in which technical assistance is requested by Member States are hereafter summarized. The basis for UNAFRI's effective delivery of technical assistance relates to its affiliation, collaboration and partnership with other agencies of crime prevention and criminal justice, including the United Nations Crime Prevention and Criminal Justice Programme Network of Institutes.

The Network is a resourceful medium that has to explore ways of harmonising the technical assistance requested by Member States, by putting together the means at our disposal with a view to offering to the African region the needed technical assistance. The continent appears more vulnerable to the devastating impact of crime on the development of the region, given its low technical capacities. Some parts of Africa are very fertile ground for national and transnational organised crime. The Centre Innocenti (UNICEF) in this respect reveals that the majority of countries are countries of origin, transit and destination for trafficked women and children (UNICEF, Insight Innocenti, 2004);

and trafficking in firearms which aggravate armed conflicts and instability in the region. This is a consequence of the low levels of development, which translate into lack of mechanisms for prevention and detection of crime, giving rise to growing trends of criminal activities with near impunity.

The paper intends to briefly describe, from the requests by Member States (See UNAFRI's survey, 2003; and the Programme of Action 2006 – 2007 endorsed by the Round Table for Africa (UNODC, September 2005); the needs expressed by Member States (Section I: UNAFRI and its Member States) and stresses on the need for the United Nations Programme Network of Institutes (PNI) to coordinate the Institutes' programmes of activities in view of maximising the benefit by countries and regions (Section II: UNAFRI and its Sister Institutes of PNI).

## **I. UNAFRI and its member states**

### **1.1 Needs of Member States**

UNAFRI'S survey (UNAFRI and its Stakeholders, 2003) gave an insight on what was perceived as areas of need for technical assistance by 12 Member States (Botswana, Burkina Faso, Cameroon, Comoros, Djibouti, Guinea Conakry, Mali, Mozambique, Senegal, Tanzania, Uganda and Zimbabwe), which responded to the questionnaire.

All the 12 countries have indicated their needs on:

1. Training of senior officers
2. Public awareness about UN Conventions
3. Active cooperation with neighbouring countries

Among the above countries, 11 needed:

4. Assessment in training and research
5. Innovative crime prevention initiatives

Among the same countries, 10 have expressed the need to:

6. Elaborating training modules
7. Disseminating relevant Conventions, including specific UN Norms and Standards
8. Initiating African Conventions
9. Establishing networks, and
10. Dissemination of best and promising practises

Lastly, 9 of them expressed their concern about:

11. Harmonisation of laws

## 1.2 Programme of Action

The expressed needs by Member States led UNAFRI to refocus its Medium Term Strategy and Plan of Action 2002 – 2006 on a Programme of Action clustered around (1) training, (2) sensitisation campaigns and (3) strengthening mechanisms for subregional cooperation. UNAFRI's Programme of Action relates largely to the more detailed Programme of Action of UNODC (with 7 clusters of action), endorsed by Member States (See UNODC, 2005). The assistance UNAFRI offers to Member States aims, inter alia, at implementing the United Nations Crime Programme in the Member States, taking into consideration the socio-cultural realities of the region.

### Cluster I: Training

- 1.1. Training of senior officers
- 1.2. Elaborating training modules
- 1.3. Assessment in training and research
- 1.4. Innovative crime prevention initiatives
- 1.5. Dissemination of best and promising practices (an item related to all three clusters).

### Cluster II: Sensitisation campaigns

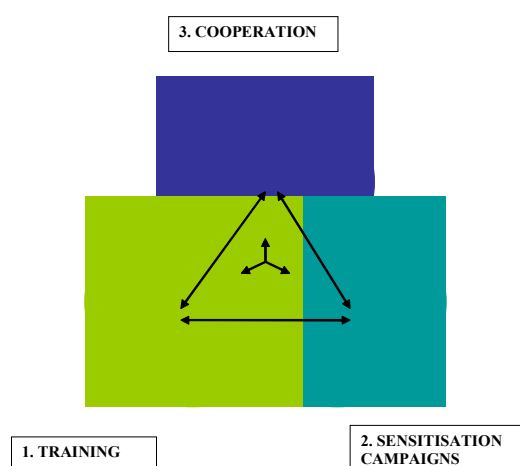
- 2.1. Public awareness about UN Conventions (and standards)

### Cluster III: Cooperation

- 3.1 Active cooperation with neighbouring countries
- 3.2. Dissemination of relevant Conventions
- 3.3. Initiating African Conventions
- 3.4. Establishing of networks, and
- 3.5. Harmonisation of laws

It is worth noting that training activities are a means to (1) developing the capacity of the Criminal Justice System personnel; (2) assisting Member States internalise and implement UN Conventions and Standards; in so doing (3) sensitising the concerned officials and the public; and (4) strengthening cooperation among countries, which should lead to harmonising regional legislations.

Different UNAFRI's activities in Member States cover mainly three domains of action. This is to say that, in response to the needs expressed by Member States, the offered activity should cover the aspects of training, sensitisation and cooperation with other countries (See Diagram 1 below).



From the above diagram, it can be noted that a project intended for example to “Disseminate best and promising practices” (1.5), Cluster I, leads, inter alia, to “Public awareness about UN Conventions” and Standards (2.1) in as far as reference is made to these instruments, Cluster II (Sensitisation campaigns); to “Harmonisation of laws in the region” (3.5), Cluster III (Cooperation); to “Dissemination of relevant Conventions” (or Standards), also in Cluster III. UNAFRI’s technical assistance aims at a comprehensive development of the capacity of the Criminal Justice System personnel (sensitising the public and strengthening cooperation among Member States). In achieving this, it is essential that the Institute receives support from the PNI.

## II. UNAFRI and the PNI

I would like to seize this opportunity to request the meeting to explore possibilities of backing UNAFRI up in delivering its mandated services to Member States for their maximum benefit in terms of technical assistance offered, without undue duplication of effort and resources. The Programmes of activities of Institutes are communicated to all the Members of the Network. This should help to avoid duplication of activities in the regions or countries. At need, similar or related programmes or activities in the same countries or regions may be organised as joint activities by concerned Sister Institutes.

Allow me to indicate that any technical assistance by a Sister Institute in the African region or a country, without the involvement of UNAFRI, only weakens UNAFRI’s capacity to service the needs of its Member States. The Network will have more to gain if it could coordinate, when and where it would be possible, its activities in Africa, even if this would require involving several members of the PNI. Concerning the African region, this will be a way of strengthening the delivery mechanisms for technical assistance requested by countries, and asserting the importance and relevance of PNI. Fortunately, there is apparent reference and identification of this realisation by the Third Committee

of the UN General Assembly as alluded in their Draft Resolution on UNAFRI (A/c.3/60/L.10), whose operative paragraph 8 reads:

“Call upon the United Nations Crime Prevention and Criminal Justice Programme and the United Nations Office on Drugs and Crime to work closely with the Institute;”

In this respect, I wish to acknowledge with sincere appreciation the support and collaboration received from UNODC and hope that the established working relationship with UNODC and other Sister Institutes in the Network will continue to grow. Allow me to mention that UNAFRI is indebted to United Nations Office on Drugs and Crime (UNODC) for involving the Institute, at different levels, e.g. Intergovernmental Experts Group Meetings, in a number of its activities both for the African region (Crime and Drugs as Impediments to Security and Development in Africa: A Programme of Action 2006 – 2010 (UNODC, 2005)) and for the world (e.g. the Criminal Justice Assessment toolkit).

## Conclusion

There is a crucial need that the “Network” operates in a more harmonised way to maximise the use of scarce resources at our disposal.

Our proposal in this matter is that the other Members of the “Network” consider and explore ways of involving UNAFRI as a partner in the activities and drawing initiatives with specific reference and benefit to Africa. It is possible and quite realistic for members of the PNI to collaborate and execute or plan to implement a number of activities in the Africa region.

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# Asia and Far East Examples of Technical Assistance in the Traditional Areas of Crime Prevention and Criminal Justice

Megumi Uryu, Professor, UNAFEI  
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## Introduction

The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) is one of the United Nations regional institutes, established in 1961 by agreement between the United Nations and the Government of Japan, with the aim of promoting the sound development of criminal justice systems and mutual cooperation in Asia and the Pacific region.

Urbanization in Asia and the Pacific region has been growing rapidly. UNAFEI is located in Tokyo, but fortunately, we are located not in the centre but in a peaceful residential area of suburban Tokyo, called Fuchu.

UNAFEI's activities include training courses and seminars for personnel in crime prevention and criminal justice administration, and the research and study of crime prevention and the treatment of offenders. Above all, UNAFEI has a reputation for organizing high-quality training courses and seminars as a part of its technical assistance. All the courses and seminars are fully funded by the Japanese Official Development Assistance (ODA) programme. The total number of overseas participants that have taken part in our programmes is 2,584 from 119 countries.

## Two Technical Assistance Activities Carried Out by UNAFEI

I would like to give you two examples of UNAFEI's activities:

1. The technical assistance project for the Revitalization of the Volunteer Probation Aides System in the Philippines; and

2. The 129<sup>th</sup> UNAFEI International Senior Seminar.

The former one is an example of long-term technical assistance to a specific country and the latter one is a typical example of a multilateral training seminar.

### 1. Project for the Revitalization of the Volunteer Probation Aides System in the Philippines

#### *Background of the project:*

The Philippines established a Volunteer Probation Aides (VPAs) system in 1978. During the 1980s, the number of VPAs exceeded 2000. However, by 2002 the number had decreased to 167.

The Philippine Government wished to revitalize the VPAs activities. Responding to their request, the technical assistance project for the revitalization of the Volunteer Probation Aides System in the Philippines was launched in 2003.

#### *Description of the project:*

In this project, we introduced the Japanese volunteer model to the Philippino participants. In Japan, volunteers from the community play a key role in the prevention of crime, especially in the field of community-based treatment of offenders. Together with these Japanese Volunteer Probation Officers (VPOs), UNAFEI faculty members offered them advice on:

- Organization of volunteers
- Recruitment of volunteers
- Ways to motivate volunteers, such as an awards system



We have conducted several seminars and training courses in the Philippines and also at UNAFEI, including a number of Tele-Video Conference Seminars. So far, approximately 50 Philippine probation officers and volunteers have participated in the training sessions held at UNAFEI.

We aim to increase the number of VPAs to 5,000 in the near future (2,000 as of Dec. 2005).

#### *Key factors in the success of this project:*

We believe that a sense of ownership in this project was the key to its success. It is likely that several factors contributed to this sense of ownership such as:

1. The Project was started based on the needs of the Philippines and in response to their request;
2. The Project directly responded to their needs and interests;
3. The Philippines was actively involved in planning of the project from the outset;
4. The Project purpose and goals were clearly shared by both the donors and the recipients.

Consequently, the strong commitment of the Philippines has been an important factor in the success of the project and for its self-sustainability.

## **2. The 129<sup>th</sup> UNAFEI International Senior Seminar**

Secondly, I would like to tell you about our 129<sup>th</sup> International Seminar, as an example of our multi-lateral activities.

#### *Background of the Seminar:*

UNAFEI annually holds a five-week International Senior Seminar for high-ranking or senior public officials from central bureaus, departments or agencies in the field of criminal justice, such as police, prosecution, the judiciary, corrections and rehabilitation, etc. The

129<sup>th</sup> Seminar which was held January - February 2005 focused on the “Effective Prevention of Crime Associated with Urbanization Based upon Community Involvement and Prevention of Youth Crime and Juvenile Delinquency”.

#### *Description of the Seminar:*

The seminar was composed of individual presentations by participants, lectures by world-class visiting experts from overseas, as well as those by Japanese experts and UNAFEI faculty members, group workshops where participants discussed the topic in depth, and observation visits to relevant agencies. After enthusiastic discussions during the group workshops, the participants of the 129<sup>th</sup> Senior Seminar came up with some suggestions on:

1. measures that can be taken by the police and prosecution to prevent crime associated with urbanization such as community policing and community prosecution;
2. crime prevention measures in the community by the active participation of community residents; and
3. an integrated approach (multidisciplinary approach) for youth at risk by the cooperation and collaboration of multiple agencies such as the criminal justice system, schools, welfare services, hospitals and others.

## **Suggestions**

Finally, I would like to offer some suggestions in regard to training and technical assistance in this area.

#### *1. Encouraging a strong commitment by high-ranking officials and the establishment of an integrated policy*

The problems of urban crime and delinquency are often the result of various social problems. Therefore, if we try to provide effective assistance to the countries

which suffer from these problems, the establishment of an integrated policy (approach) by the central government is indispensable. This can be realized by the strong political will of the leading persons such as the prime minister, politicians and the senior management of leading governmental agencies, etc.

## *2. Promotion of a multi-agency approach*

Along the same lines, multi-faceted problems can only be solved by the establishment and promotion of multi-agency collaboration and cooperation.

## *3. Systematic training*

Training of the personnel who deal with this problem should be conducted in a systematic way.

(a) An annual training plan needs to be established and sufficient resources should be allocated based upon the plan.

(b) Systematic training should consist of (i) regular training from the primary level to senior level and (ii) special (thematic) training on an ad hoc basis to supplement the regular training.

## *4. Systematic monitoring and feedback system - Maintain sustainability and further improvement of the entire system.*

To realize the desired outcome of technical assistance and training, it needs to be carefully monitored and any problems should be followed up by the competent authorities. In practice, maintaining sustainability is a very difficult issue, which supporting countries and organizations have been faced with for a long period, but this is vitally important in order to realize effective technical assistance.

## **Conclusion**

In conclusion, I strongly believe that we can work together in the field of technical assistance. Please feel free to let us know if there is anything we can do. Our mission is to be able to contribute to crime prevention and make a positive impact on society. We also need your assistance, since UNAFEI is always looking for experts who can contribute to our training courses and seminars as visiting experts.



# Promotion of United Nations Standards and Norms in Crime Prevention and Criminal Justice

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## Why standards and norms in crime prevention and criminal justice?

Crime prevention and criminal justice deal with issues and values that are at the core of national sovereignty. As a result, over the centuries, criminal justice systems have developed in diverging directions.

Three factors have changed the trend in development from increasing divergence to closer convergence of criminal justice systems:

- the need to agree on common definitions of crime and on procedural measures in order to facilitate international legal co-operation;
- recognition of the value of studying how crime problems are dealt with elsewhere (exchanging information on best practice); and
- the adoption of certain minimum legal safeguards in order to promote human rights.

The United Nations standards and norms embody an expression of a common ideal. ECOSOC has noted that they constitute internationally accepted principles outlining desirable practices.

## Evaluation of the progress made in the application of United Nations standards and norms

Have the UN standards and norms had any effect in practice? Despite the fact that they are “soft law” and thus are not binding on the Member States (with some exceptions), the over-all answer is “yes”, even if their impact is not always visible.

On the international level, the UN standards and norms have been integrated into legally binding instruments, and cited by special rapporteurs as well

as by various UN bodies. They are also the basis for further development of standards and norms.

Analysis of their impact on the domestic level is more difficult, due to a number of factors: the absence of an obligation to report, the heterogeneity of the criminal justice systems of different States, the possibility of different interpretations of the same text, and the difficulty in determining if a specific change in national law, policy or practice was due to the influence of a United Nations standard and norm, or to other factors.

Nonetheless, many reports from States to the UN cite examples of the impact, and the literature shows several further examples of impact. In many States, the standards and norms are becoming part of the national discourse on crime prevention and criminal justice. Also, the standards and norms are used in ongoing peacekeeping missions and post-conflict reconstruction.

## Promoting the implementation and application of United Nations standards and norms in crime prevention and criminal justice

Standards and norms that remain sterile ideas on paper have no true significance. The General Assembly and ECOSOC have repeatedly called for implementation.

A variety of mechanisms can be used to promote implementation and application:

- reporting;
- assessing the application of standards and norms;
- encouraging the appropriate UN bodies to use the crime prevention and criminal justice standards and norms;

- providing advisory services and other technical co-operation on request; and
- other mechanisms.

### *Reporting*

Reporting by Member States is voluntary. Already when it prepares its report on domestic application of UN standards and norms, the Member States can gain various benefits:

- gathering the data can lead to a comprehensive review of the relevant national legislation, procedures and practice;
- by repeating the review, the States can monitor changes in the criminal justice system;
- each report provides a basis for evaluating national progress and identifying specific benchmarks or goals;
- the State can better understand what problems and shortcomings have been encountered;
- the reporting process may also open up government policies to wider scrutiny in society; and
- the reporting process may enable the State to demonstrate that it has in fact taken action.

### *Assessing the application of standards and norms*

The assessment of reports can provide various benefits to the international community:

- the assessment can lead to a better understanding of the various factors or difficulties that States encounter in application of the standards and norms, which in turn may help the United Nations in making better informed decisions on technical assistance;
- the assessment can help in identifying ways in which the existing standards and norms should be developed or supplemented; and

- the information provided may provide further encouragement to Member States to apply the standards and norms, and indicate new ways in which the standards and norms can be applied.

### *Providing advisory services and other technical co-operation on request*

The UNODC can promote the application of standards and norms in a variety of ways:

- the provision of the services of experts;
- the organization of national and regional seminars and other meetings;
- the organization of other training;
- the preparation of informational or educational materials. The co-operation can be directed at the legislative or policy-making level;
- the dissemination of the texts of the standards and norms (this is a basic measure and yet remains important: not even peacekeepers are necessarily aware of them!);
- the dissemination of reports on application; and
- the development of more detailed standards and norms.

### *Encouraging the appropriate UN bodies to use the crime prevention and criminal justice standards and norms*

Promotion of the application of the UN standards and norms should be done not only on the national level, but also on the global level, through the appropriate UN bodies. This includes, of course, the UNODC but also, for example, the Centre for Human Rights (in particular the Office of the United Nations High Commissioner for Human Rights), the Department for Policy Coordination and Sustainable Development, the United Nations Children's Fund, and the Division for the Advancement of Women.

The standards and norms provide other UN bodies with material for their work, and perhaps also yardsticks to assess progress in the field.

The work of other UN bodies strengthens the impact of the standards and norms.

### **Assessment of modalities for collecting and reporting on the application of United Nations standards and norms**

With the proliferation of standards and norms in particular during the 1980s, concern began to be expressed about the utility of the reporting regime. Reference was made to, for example, the poor response rate to UN notes verbale, the perceived poor quality of some of the responses, and the absence of any effective verification procedures.

A meeting of experts was convened in Vienna on 14-16 October 1991. The experts noted that, among the major impediments to effective application, were the resource constraints, and the fact that the cultural, social and political realities could reflect on the way in which the instruments or resolutions were applied.

The meeting, which took place parallel to the work on the restructuring of the United Nations programme, produced recommendations relating to

- measures to improve information dissemination and education;
- research and technical co-operation;
- proposed measures to make monitoring more comprehensive,
- to increase the accuracy and reliability of monitoring information and
- to make the monitoring process a springboard for action; and
- steps to be taken by the principal actors in the application and monitoring of United Nations standards.

Following on the recommendations of the meeting, ECOSOC requested that the Secretary-General

commence without delay a process of information-gathering to be undertaken by means of surveys and contributions from other sources.

This model was followed, and between 1996 and 2002 a full cycle was completed.

The 1998 report of the Secretary-General contained some proposals for further streamlining of the reporting mechanism:

- the concept of a model profile for individual countries;
- avoid requesting information from Member States that had already been provided;
- bring all the available information together into an informative whole;
- simplify the updating of information; and
- provide the basis for a more in-depth analysis of relevant issues.

### **Discussion at the Commission on the application of the standards and norms**

The consideration of the application of United Nations standards and norms is a standing item on the agenda of the Commission. Equally, there has been long-standing debate over the utility of continued work on the application of standards and norms. Some States note that the work required in analysing and discussing the responses of Member States is considerable.

Among the steps taken by the Commission to improve the efficacy of the process was to decide that updated reports would not be made unless at least 30 additional States had replied, and that the bureau decides which reports are to be submitted orally instead of in writing.

The 2002 report of the Secretary-General suggested weighing the cost-benefit value of the resources, time and energy expended in the exercises against the output, and considering “whether the current system has exceeded its utility ... Discontinuation of

the current information-gathering system would make it possible to devote time and resources to promoting interfaces between the body of standards and norms, non-binding instruments, and the new binding instruments (conventions and protocols) ... Interfacing and mutual reinforcement between the body of non-binding and binding instruments in the field of crime prevention and criminal justice and in other relevant fields of United Nations competence and activity (for example, human rights, children's rights, women's rights, refugees and labour) are essential to enhance the impact of the United Nations"

### **Starting the next cycle: the "cluster approach" to assessing the application of United Nations standards and norms**

A further expert meeting was held in Stadtschlaining, Austria on 10-12 February 2003. This meeting made several proposals for further promotion of implementation, including the use of the "cluster approach" to assessment.

The reason for the "cluster approach" is that many themes can be seen to run through the body of standards and norms. Some instruments, or extensive elements of some instruments, deal with such cross-cutting issues as fair treatment, gender mainstreaming, human rights, children's rights, bribery and corruption, and public security. Others deal with specific areas of concern (for example, women, victims and juvenile justice); criminal justice processes (for example, sanctioning, law enforcement and prevention); sector issues (for example, the courts and prison administration); and the conduct of professionals (for example, prosecutors, lawyers, police and the judiciary).

The expert group identified four clusters of standards and norms. This approach was subsequently adopted by the Commission:

- first cluster: provisions related to gender equality (in close cooperation with the Division for the Advancement of Women). In line with the Vienna Declaration, the focus would be on the special needs of women as

criminal justice practitioners, victims, prisoners and offenders.

- second cluster: provisions related to good governance and the integrity of criminal justice personnel.
- third cluster: provisions related to the rule of law and to human rights in the administration of justice (in close cooperation with the Centre for Human Rights).
- fourth cluster: provisions related to legal, institutional and practical arrangements for international co-operation.

### **Operationalization of standards and norms in the application of technical co-operation projects in developing countries, countries with transition economies and post-conflict countries**

Discussions within the United Nations programme on standards and norms should have a sharper focus. One constant theme is that of enhancing the ability of the programme to provide technical assistance to Member States on request.

Experience has underlined the fundamental importance of changes in domestic criminal justice legislation and administration to the development of society in general. In particular, various funding agencies have identified corruption and deficiencies in the rule of law as factors in the failure of a number of projects.

Application of the standards and norms can provide a useful tool for enhancing human rights, the performance of the criminal justice system and the protection of the community. Not only can they indicate areas where more work needs to be done, they can also provide a basis for the development of measurable criteria of the fairness and effectiveness of the operation of national criminal justice systems from an international perspective.

Although some questions regarding the application of standards and norms can be answered with a simple “yes” or “no”, in many cases, adequate reflection of the status of application would require a more nuanced response.

For example, instead of simply asking, in connection with the Basic Principles on the Role of Lawyers, whether or not all persons have the right to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings, the survey instrument might ask how many practicing lawyers there are in the country per 100,000 in population, how many defendants in criminal cases are represented by a lawyer, and how much funding has been allocated for legal services to the poor.

The criteria can also be quantitative, and serve in effect as a statistical benchmark. This is the approach that has been used by HEUNI in assessing crime trends and the operation of criminal justice systems in the world. HEUNI has looked at such issues as law enforcement resources, gender balance among criminal justice practitioners, effectiveness of police recording, productivity of police and prosecutors, citizens’ evaluation of police performance and citizens’ experiences of police corruption.

To take an example of possible statistical benchmarking from the first cluster noted above, which deals with gender equality, statistical data could be collected on the rates of female police, prosecutors, judges and correctional personnel per 100,000 in population. Statistical data could also be collected on the rate of assaults and sexual assaults against women, based not only on official statistics but also, where available, on victim surveys.

Several examples can be cited of the second cluster, which deals with good governance and the integrity of criminal justice personnel. One example would deal with the rate of corruption among public officials. Here, again, recorded data and victim survey data (where available) can be used. Another example would be the number of recorded cases in which a law

enforcement official had used a firearm, and the proportion of recorded violent deaths which had been connected with police activity. A third example, which assumes the availability of victim survey data, would be based on various evaluations that the survey respondents have of the performance of the police. Such evaluations are standard elements of victim surveys.

The issue of application of United Nations standards and norms should not be seen as one of the convergence of national criminal justice systems toward one standard model of criminal justice. Instead, there will continue to be diversity. There is no perfectly functioning criminal justice system, nor is there a unique end-point for the development of criminal justice. Any numerical indicators can serve only as summaries of a detailed qualitative analysis of progress in the various areas.

## Conclusions

The United Nations standards and norms in crime prevention and criminal justice continue to be relevant in the development of crime prevention and criminal justice locally, nationally and internationally. They embody a useful and exemplary set of instruments in international law that contribute to basic human values. Each and every State, whether developed or developing, should examine its progress in the implementation of standards and norms. The standards and norms are relevant in establishing the basis for good governance and institution-building and thus also for economic development especially in post-conflict situations. They should be promoted, protected and pursued by the Governments, intergovernmental and non-governmental organizations, and civil society.

The focus in the assessment of the application of the United Nations standards and norms should move to how these assessments can strengthen the work of the United Nations in general, in line with over-all priorities established by the Economic and Social Council and the General Assembly. Particular attention should be paid to using these assessments to strengthen technical cooperation activities of the United Nations.



## Annex

**Cross-cutting issues** identified by the Secretary-General (E/CN.15/2001/9, para. 16):

- substantive criminological issues (for example, fair treatment, gender mainstreaming, human rights, children's rights, bribery and corruption and public security)
- specific areas of concern (for example, women, victims and juvenile justice)
- criminal justice processes (for example, sanctioning, law enforcement and prevention);
- sector issues (for example, the courts and prison administration); and
- the conduct of professionals (for example, prosecutors, lawyers, police and the judiciary).

### Cluster 1

**Provisions of standards and norms that are related to gender equality** (particularly relevant cross-cutting issues: gender mainstreaming; women, prosecutors, lawyers, police and the judiciary, prevention)

Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice

paragraph 8(a) of the Standard Minimum Rules for the Treatment of Prisoners

paragraphs 3 and 17 of the Basic Principles of Justice for Victims of Crime and Abuse of Power

### Cluster 2

**Provisions of standards and norms related to good governance and the integrity of criminal justice personnel** (particularly relevant cross-cutting issues: fair treatment, law enforcement and the police, lawyers, prosecutors, courts and the judiciary, bribery and corruption, public security, prevention)

**Standards and norms primarily related to professional conduct**

Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169)

Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials (Economic and Social Council resolution 1989/61)

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Guidelines on the Role of Prosecutors

United Nations Declaration against Corruption and Bribery in International Transactions (General Assembly resolution 51/59, Annex)

The International Code of Conduct for Public Officials (General Assembly resolution 51/191, Annex)

Basic Principles on the Role of Lawyers

Basic Principles on the Independence of the Judiciary  
Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary (Economic and Social Council resolution 1989/60)

**Standards and norms primarily related to crime prevention**

Guidelines for the prevention of urban crime (Economic and Social Council resolution 1995/9)

United Nations Declaration on Crime and Public Security (General Assembly resolution 51/60, Annex)

Action to promote effective crime prevention: standards and norms (Economic and Social Council resolution 2002/13)

Prevention and control of organized crime (Annex. Guidelines)

Terrorist criminal activities (Annex. Measures against international terrorism)

### Cluster 3

**Provisions of standards and norms related to the rule of law and to human rights in the administration of justice** (particularly relevant cross-cutting issues: human rights, courts, sanctioning, prison administration, children's rights, victims, juvenile justice)

**Standards and norms primarily related to capital punishment**

Effective prevention and investigation of extra-legal, arbitrary and summary executions (Economic and Social Council resolution 1989/65) (Annex. Principles)  
Capital punishment (General Assembly resolution 2857 (XXVI))

Safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council Resolution 1984/50)

Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council resolution 1989/64)

Capital punishment (Economic and Social Council resolution 1990/29)

#### **Standards and norms primarily related to remand and convicted persons**

World social situation (Economic and Social Council Resolution 663 (XXIV)) (Annex. Standard Minimum Rules for the Treatment of Prisoners)

Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 1984/47)

Basic Principles for the Treatment of Prisoners (General Assembly Resolution 45/111)

Kampala Declaration on Prison Conditions in Africa (Economic and Social Council resolution 97/36)

#### **Standards and norms primarily related to victim issues**

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34)

Implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Economic and Social Council resolution 1989/57)

Victims of crime and abuse of power (Economic and Social Council resolution 1990/22)

Protection of the human rights of victims of crime and abuse of power (Economic and Social Council resolution 1990/22)

#### **Standards and norms primarily related to restorative justice and non-custodial sanctions**

Basic principles on the use of restorative justice programmes in criminal matters (Economic and Social Council resolution 2002/12)

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) (General Assembly resolution 45/110)

#### **Standards and norms primarily related to juvenile issues**

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33)

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (Economic and Social Council resolution 1989/66)

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112)

United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113)

Guidelines for Action on Children in the Criminal Justice System (Economic and Social Council resolution 97/30)

#### **Cluster 4**

**Provisions of standards and norms that deal with legal, institutional and practical arrangements for international co-operation** (particularly relevant cross-cutting issues: law enforcement, courts)

Model Treaty on Extradition (General Assembly resolution 45/116)

Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117)

Model Treaty on the Transfer of Proceedings in Criminal Matters (General Assembly Resolution 45/118)

Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the treatment of foreign prisoners (Annex I. Model agreement on the Transfer of Foreign Prisoners; Annex II. Recommendations on the treatment of foreign prisoners)

Model Treaty for the Prevention of Crimes that Infringe on the Cultural Heritage of Peoples in the Form of Movable Property

Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released (General Assembly resolution 45/119)

Model Bilateral Treaty for the Return of Stolen or Embezzled Vehicles (Economic and Social Council resolution 97/29).

# The Impact of International Standards and Guidelines on Prisoner Health in Eastern and Central Europe

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## Abstract

The article considers the impact of international standards and guidelines on prisoner health in Eastern and Central Europe and draws on some common themes from research carried out in various European prison systems both in adult and juvenile prisons in the new EU member states (MacDonald, 2005, 2004, 2003). The issues discussed affect some states more than others. However, often the same problems are found in established EU states as in new member states. An analysis of what the barriers to implementation are and what future assistance is required to improve implementation of prisoners' right to health care and drug treatment services will be explored.

## Introduction

Providing health and drug services that are equivalent to those available in the community is extremely difficult in a situation where prisoners are unable to choose their doctor and in an environment that demands security. In these circumstances, guidelines and standards have a key role to play in the provision of health care and drug treatment. However, guidelines and standards to address prisoner health are only useful if they are implemented and used as the basis to change prison policies and health

services. In many of the countries that this research focuses upon (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia), there were examples of good practice in the provision of health care and drug services for prisoners but in most there was need for further work in order to meet international standards and guidelines.

There is already in existence a wide range of recommendations for the prison setting provided by international bodies covering prisoners' human rights, health care, harm reduction and drug treatment. It is worth noting that:

Given the diversities of cultures, political systems and national prison policies, it is remarkable how many nations were able to agree on prison rules that also contain accepted rules for medical ethics (Pont 2006).

The main guidelines for prisoner health were established by the United Nations, the World Medical Association, the Council of Europe and other leading international bodies.<sup>1</sup> The common themes that will be discussed with particular reference to problematic drug and/or alcohol users that are common to most of the countries visited are overcrowding, equivalent health care, harm reduction and drug treatment and to what extent the provision meets international standards and guidelines.

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<sup>1</sup> United Nations (Body of Principles for the Protection of Persons Under Any Form of Detention or Imprisonment, 1989; European Prison Rules. Revised European Version of the Standard Minimum Rules for the Treatment of Prisoners, Recommendation R (87) 3); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987), World Medical Association (Declaration of Tokyo. Guidelines for Physicians Concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment. Tokyo 1975, revised Divonee-Bains 2005), Council of Europe (European Prison Rules. Revised European Version of the Standard Minimum Rules for the Treatment of Prisoners, Recommendation R (87) 3) and Other International Documents such as Penal Reform International: Making Standards Work. An international handbook on good prison practice. 2nd edition, 2001; Physicians for Human Rights: Dual Loyalty and Human Rights in Health Professionals Practice; Istanbul Protocol, The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Dublin Declaration on HIV and AIDS).



## Impact of overcrowding

Prisoners in addition to being in a bad state of health are often faced with overcrowded prisons with substandard living conditions. Over the past years prison populations have steadily increased while in many countries the capacity of prison services has not kept pace.

While overcrowding is an issue for health all over Europe, the situation is particularly serious in the countries of Central and Eastern Europe (CEE) where overcrowding goes hand in hand with major health problems. The majority of the ten countries identified overcrowding as a key problem. All the prisons shared the same problems associated with overcrowding (high prisoner to staff ratio, decreasing opportunities for prisoners to work and so on). However, not all of the sample prisons were considered to be overcrowded at the time of the visit. However, even when a prison system doesn't seem to be overcrowded some prisons are – often remand prisons.

Overcrowding is an obvious cause or contributing factor to many of the health problems in prisons coupled with substandard prison conditions and the consequent stressors that can negatively affect the mental health of prisoners or exacerbate pre-existing mental health problems.

Overcrowding hinders efforts to improve prison living standards and prison health care services and to preventing the spread of HIV and other infections amongst prisoners. Overcrowding makes the implementation of harm reduction and prevention initiatives much more difficult and creates the conditions for increased prison violence (including sexual coercion and rape) and puts pressure on prison health care staff.

Prison overcrowding breaches United Nations and other international standards and impacts on the ability to provide equivalent care for prisoners for the following reasons:

First, it causes a situation in which various factors such as poor hygiene facilities and restricted living space generally decreases prisoners' feelings of health and well being and puts strain on the effective delivery of health care, harm reduction and services for problematic drug users. In addition, staff in some of the prisons that were visited (MacDonald 2004) felt that, due to overcrowding and staff shortages, it could be difficult to attend training events and made it difficult to provide activities and drug services for prisoners.

Second, in situations where there is decreasing public spending prison systems can be forgotten and overcrowding can be used as an excuse for not implementing international standards and norms.

## Equivalence of health care

Human rights standards and guidelines call for prisoners to receive health care at least equivalent to that available in the community. "Equivalence" rather than "equity" has been called for because a prison is a closed institution with a custodial role that does not always allow for the same provision of care to that available outside. The Moscow Declaration on Prison Health stresses that prison health care should be part of public health (WHO Regional Office for Europe, 2003) for a range of important reasons, for example the spread of communicable diseases due to the movement of prisoners into prison and subsequently back to the community that demand prevention and treatment initiatives based on established evidence based practice provided by public health organisations and NGOs in the community.

In the majority of prison systems that were visited, medical care is the responsibility of the ministry of justice and separate from that provided in the community. The provision of health care in the different countries varied especially in their response to problematic drug users and the provision of treatment, care and prevention was often inadequate and failed to provide equivalent services or adopt a public health approach.

Most of CEE prison administrations that participated in this research claimed that prison health care was equivalent and in some cases better than that offered in the community. However, the recruitment of medical staff and lack of resources were mentioned as constant problems in the provision of health care.

There were three key issues in the delivery of health care that come from the research that detract from providing equivalence to that in the community: prisoner confidentiality, dispensing and medical cover, lack of voluntary testing.

### **1. Prisoner confidentiality**

The first of these is prisoner confidentiality that was not seen as a key issue in all the sample prisons. The prison administrations are at different stages in developing a clear understanding of the importance of prisoner confidentiality. Confidentiality is difficult to ensure in the prison environment and the sample prisons achieved prisoner confidentiality to varying degrees. While some prisons have instigated policies to increase confidentiality, others still need to make further improvements to meet the WHO Guidelines that state:

‘information on the health status and medical treatment of prisoners is confidential’ and can only be disclosed by medical staff with the prisoner’s consent or where ‘warranted to ensure the safety and well-being of prisoners and staff, applying to the disclosure the same principles as generally applied in the community’ [WHO Guidelines 31, 32].

Many staff felt they had to know who was HIV-positive or hepatitis positive, indicating a clear need for further staff training about confidentiality particularly in relation to communicable diseases.

### **2. Dispensing and medical cover**

A second key issue was where there was not 24-hour medical cover or medical cover during evenings and weekends provided in prisons. This has in some prisons led to medicines being distributed by security staff at weekends and during the evenings. Some security staff

indicated that this could be problematic because they are not trained in this area. This practice, along with the difficulty in recruiting medical staff and budget deficiencies, raises doubts about how far these prisons provide medical services equivalent to those provided in the wider community.

### **3. Lack of voluntary testing**

Third is the prison health care response to communicable diseases. HIV, hepatitis B and C are major challenges facing prisons in Europe. Whereas HIV testing is available in the majority of prison systems, testing for hepatitis is very rarely available to injecting drug users at entry to prison and this results in a lack of prevention messages and vaccination programmes.

As prison administrations receive more prisoners with a history of problematic drug use, the prevalence of hepatitis C and HIV may become much higher. If voluntary testing for HIV and HCV becomes more accessible for prisoners this will also raise the need for more pre- and post-test counselling for prisoners supported by a programme of staff training.

Testing for HIV in particular was not transparent in all the prison systems of the sample: even where testing was voluntary, not all prisoners were made fully aware for what they were being tested. This demonstrates very clearly and emphasises the importance and need for good pre-and post-test counselling supported by a programme of staff training.

Prison systems have a moral responsibility to prison staff and the public to prevent the spread of infectious diseases among prisoners, and to care for prisoners living with HIV and other infections. The availability of HIV anti-retroviral treatments and combination therapies have been important in improving the health of those living with HIV and prisons present an opportunity for prisoners (particularly injecting drug users) to have a (voluntary) HIV test and to access treatment if required.

## Harm reduction measures

The harm reduction and services for problematic drug users (PDUs) that are provided for prisoners in different countries is variable. The following four areas will be discussed: Information, education and training; condoms; Opioid Substitution treatment; needle exchange all of which are specified in various international standards (United Nations Office on Drugs and Crime, 2006).

In most of the countries, information, education and training have been carried out for both prisoners with problematic drug use and prison staff. This is often the easiest and least controversial harm-reduction measure for prison systems to provide. Although the sample prisons said that they all provided harm-reduction information to prisoners at entry to the prison, the content of the information was often minimal and not presented in a way that prisoners found accessible. This was demonstrated by some prisoners in a focus group who said that they had not received any information on arrival at the prison despite having signed a paper saying that they had. Often the only information prisoners received was at reception to the prison. There was a lack of ongoing programmes that utilised more interactive means to provide harm reduction information to the majority of prisoners. Some prisons provided much more information, usually in partnership with NGOs. Providing information in a range of languages was also highlighted as important in order to cater for foreign nationals or those who did not speak the native language.

The research identified that the provision of harm-reduction tools condoms, opioid substitution treatment, needle exchange was inconsistent across different types of prisons, within countries and between countries.

Although, in theory, condoms are available in prisons, in reality, in most of the sample prisons, they were not accessible to prisoners. For example, condoms may be available in the prison shop but prisoners often have limited money so they will not buy condoms. Studies have shown that, when prisoners have to ask

for condoms at health care services, few prisoners will do so because they do not want to disclose that they engage in same-sex sexual activity.

Methadone maintenance treatment is the most researched treatment currently available for people who are dependent on opioids. Its use is supported by an evidence-base developed over almost 40 years and from across many different countries. Opioid substitution treatment was only available in two of the countries out of the 10 countries visited but Romania is now in the process of implementing this. Thus the availability of opioid substitution treatment inside prison is not the same as its availability outside prison.

Outside penal institutions, in many countries, needle exchange or distribution programmes have become an integral part of a pragmatic public health response to the risk of HIV transmission among injection drug users (and ultimately, to the general public). Extensive studies on the effectiveness of these programmes have been carried out. For many years, there has been scientifically sound evidence showing that they are an appropriate and important preventive health measure. Generally, penal institutions have been reluctant to implement Needle Exchange Programmes (NEP) due to prohibitionist approaches to illicit drug use, concerns that syringes may be used as weapons, and that making sterile syringes available may serve to increase illicit drug use within prisons.

The research suggests that the lack of a drug strategy in a prison administration impacts on the development of suitable drug treatments for prisoners. A range of treatment options were available usually abstinence based, but were not available in all prisons within a country or in all of the countries. While abstinence-based treatment programmes provide a good opportunity for those prisoners who wish to change their drug use, there was a lack of provision as mentioned earlier, such as needle-exchange programmes and substitution treatment for those who were not motivated to stop using drugs. In addition, where substitution treatment was available in prisons for those who had started a programme in the community, it was not always possible to start such

treatment within the institution. Treatment for problematic drug users was rarely available for pre-trial prisoners. It is also quite rare to find examples of drug treatment programmes that have been designed specifically for women.

NGOs offering drug services also played a key role in the delivery of harm reduction and treatment in some prisons in most of the sample countries.

Short-term projects were offered in some prisons by NGOs. After the end of the projects, all activities that had been provided by the NGOs ceased. This indicates a need for the national prison administrations to make a commitment to provide assistance to enable the 'learning' from such projects to continue, either by staff training or by providing financial support to NGOs providing such projects.

## **Barriers to implementation**

There are numerous examples of how United Nations criminal justice standards and norms and technical assistance have impacted on national legislation and led to innovative reforms (UN Information Service, 2005). However, there are many barriers that can lessen or negate the impact from not just United Nations standards and norms but other guidelines as well.

### **Overcrowding and lack of alternatives to prison**

One of the key barriers to reform in the prison environment is overcrowded prisons and a lack of alternatives to prison that could potentially reduce prison populations. Often there is a lack of continuous programmes of training for new staff and to update previous training for older staff. In situations of overcrowding and staff shortages it can be difficult for staff to be released for the purpose of attending training.

### **Prison autonomy**

In many prison systems prison directors have a great deal of autonomy as to how they allocate their budgets. This autonomy of individual prison managers may lead to some directors who take a leadership role and choose to implement, for example, harm reduction and drug

treatment initiatives and others who do not. In addition prison directors may be influenced by the concept of abstinence that predominates amongst prison administrations at the expense of harm reduction measures like substitution treatment and needle exchange as was discussed previously.

### **Information**

There are some key documents of which there are many excellent examples produced by the United Nations Office on Drugs and Crime (2006) that are not reaching frontline staff or not translated into the required language of the country.

### **Funding for NGOs**

There is a lack of sustainable funding for projects provided by NGOs or prison administrations themselves. In many cases, when the project is completed, this can have a negative impact on the implementation of key standards and guidelines.

## **Technical assistance**

In order to overcome these barriers to the implementation of standards and guidelines a range of technical assistance is necessary.

1. There need to be more opportunities for criminal justice agencies to participate in training and projects together in order to reach agreed protocols. This is important as occupational cultures can be very different in the different criminal justice agencies and community organisations.

2. Partnership between the prison system, NGOs, and experts from other countries with related problems and systems is needed. There can be a tendency for staff to say in the CEE countries that initiatives in western European prisons were not suitable for their country and that there is a need for further research in these countries to provide evidence bases that initiatives in the west do work in prisons in their country. Providing funding for pilot projects is also particularly



important to convince people about initiatives despite the existence of evidence base from other countries.

3. Study tours are important for decision makers and frontline workers and these tours should involve mixed groups from community, prison, and police so the learning is shared. This enables the establishment of networks between different criminal justice agencies and between policy makers and frontline workers and creates an excellent medium to impact on and change views between different agencies involved with the provision of services for those in detention.

4. National conferences to highlight the key issues facing prisons and roundtable discussions involving NGOs, government health providers and all criminal justice organisations can also help to create the right environment within which to facilitate change and implementation of guidelines, standards and norms.

5. Staff interviewed in the research would find it helpful to have implementation guides with methodologies of how to set up, for example drug-free wings and the rationale for doing so including guidelines of how to evaluate such initiatives. Assistance to development monitoring and evaluation framework is key as very few initiatives had this built into the establishment of initiatives and this is important to providing an evidence base of effectiveness. In addition publication of the evidence showing variations in actual implementation of practices and procedures despite the standards and guidelines to provide an indication of the problems that delay implementation.

6. In order to implement some harm reduction initiatives there need to be appropriate legal frameworks. Providing

assistance to develop legal frameworks is crucial to enable implementation of, for example needle exchange in prisons. In addition continuing support for and dissemination of research particularly that which relates to policy and practice, to add to the existing body of knowledge is necessary.

The lack of a coherent approach or guidelines across criminal justice agencies is central to effective implementation of prisoner health, drug treatment and harm reduction. The lack of a coherent criminal justice approach has a key impact on such things as the implementation of substitution treatment where it is available in the community and in prison but not in police custody or remand houses. In addition the documents available often refer to prisons only and not to the wider settings of possible detention.

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# A Mission for UNODC to Reduce Victimization by Crime

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More than one billion persons will be victims of crime across the world this year. More than three thousand persons will be a victim of a crime every minute. They will suffer loss, harm and suffering at the hands of the perpetrator and often further trauma if they cooperate with the criminal justice system. Their families, witnesses and others will share this pain and loss.

Let me help you appreciate what 3000 victims a minute looks like. If only ten percent of those victimizations were sexual assaults on women, it means that at least 100 million women will be sexually assaulted this year. That means that every year the magnitude of the horror of the sexual assaults that occurred in the Rwandan genocide occurs in the world but multiplied by 100. Yes every year and multiplied by one hundred.

It is not just the magnitude that is the tragedy but that it does not need to be like that. UNODC has been the source of important standards and norms to prevent crime and establish principles of justice for those victims. WHO, DAW, Habitat have brought together knowledge as to how reduce crime. If UNODC decided to champion real reductions in victimization as its mission, it would have a winning plan to get the resources and support to significantly reduce one of the major blights on quality of life for people across the world.

## Prevention of victimization

In 2003, the UN adopted new standards called the Guidelines for the Prevention of Crime, renewing guidelines from 1996. Essentially these suggest that governments would reduce crime significantly if they decided to do just that and established, among others:

1. Permanent and Funded Responsibility Centres for Prevention to maintain

institutional frameworks and structures for effective action.

2. Multi-Sectoral Approaches and Partnerships to tackle the multiple social factors associated with crime and victimization.

3. Knowledge-Driven Strategies, Human Capacity and Data Systems to establish effective practice and coordinate and disseminate knowledge with appropriate human capacity and data systems.

Unfortunately there are few countries that have actions close to these standards to prevent crime. Most spend scarce resources on reacting to crime one at a time after the fact with more police, more judges and more prisoners. It is countries in Scandinavia that are among those that are closest to national strategies to shift resources from reaction to prevention. Canada's governmental National Crime Prevention Centre has recently provided funding to our new Institute for the Prevention of Crime at the University of Ottawa to work with national associations and municipalities to work out ways to harness knowledge to reduce crime in Canada.

The International Centre for the Prevention of Crime affiliated with the UN is a lighthouse to share successes between countries. But there is no established standard to ensure crime is being reduced. Unlike child rights, there is no international committee on crime prevention to monitor progress in reducing victimization.

My recent book – *Less Law, More Order* – uses the work of authoritative entities such as the World Health Organization that have reviewed the knowledge on what prevents victimization. Similar to the conclusions from the Division on the Advancement of

Women and UN Habitat, it calls for national and international action plans that will reduce violence significantly but without over-reliance on reactive policing and criminal justice. It shows what works to reduce crime and how to deliver it. It proposes the type of investment and legislation that is needed to wean government policies from an over-reliance on reactive law enforcement and criminal justice to a balance with cost effective and sustainable policies to prevent crime.

## Support and protection for victims

In 1985 the UN adopted the Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power. Essentially all governments made a commitment to provide services for victims of crime, ensure restitution from the offender and compensation from the state and ensure that victims are heard when their personal interests are affected of abuse of power.

Unfortunately, it is still a minority of victims who will be lucky enough to receive fair treatment and support. Even fewer will get reparation and fewer still will be able to participate in the criminal justice process in a manner consistent with UN norms.

The HEUNI publication on “Crime Victims: Doing Justice to their Support and Protection” provides examples of what has been done to meet international standards and provides examples. The rights of victims are as important as any other human rights. Inspiring examples exist for what is needed for developing countries.

In Europe and other developed countries, the needs of victims of crime and abuse of power are met through legislation, services, and reparation. In the USA, services for victims of crime have been funded from fines on offenders rather than taxes. In France, victims have lawyers in criminal courts. Japan has recently adopted a model law on how to implement the UN declaration. For India, the Commission for Reform of Criminal Justice has called for an overhaul of criminal justice to make it more responsive to victims, and to provide rights and reparation.

Trans-nationally, the *Statute of Rome* in 1999 (and later the Rules of Procedure and Evidence) established the International Criminal Court with provisions for victims that are closer to UN standards than any individual piece of national legislation. The *UN Convention Against Transnational Organized Crime* in 2000 and its optional protocol in 2002 on trafficking includes specific sections for victims.

The recent UNODC Intergovernmental Expert Group made a series of proposals on how to foster the use and application of United Nations standards and norms related primarily to victim issues. One recommendation is particularly important. Member States should be encouraged to consult the draft convention on justice and support for victims of crime and abuse of power prepared by the International Victimology Institute of the University of Tilburg in the Netherlands and the World Society of Victimology.

## A mission for UNODC

So we have the standards and the knowledge but are not using it. What is needed is a UN champion to invest to make that transformation happen. UNODC must become that champion and take a leaf from the success of the UN agencies that have clear missions and set bold targets – reduce the one billion victims of crime by 50% within ten years.

WHO, DAW and UN Habitat are putting their money where their mouth is. UNODC needs to do the same but better than or with them by spearheading the reduction of victimization. UNICEF has become a household name for its success in transformations relating to improving the situation of children in the world by consolidating a comprehensive convention.

UNODC must assist its commissions and ECOSOC to develop targets and stop multiplying conventions by adopting an overarching convention that would provide for reduction and support for victims while respecting the rights of offenders and the public.

This would include:

- Targets for the reduction of victimization as the central part of the UNODC strategic plan with a concrete plan to monitor achievements;
- A financial target of ten percent of the resources of the Secretariat to implement what works to reduce victimization and enhance services for victims and to call on Member States to do the same;
- The 2010 Congress a World Summit on Innovation and Transformation for Less Crime, devoting sub-themes to
  - implementing integrated and comprehensive crime prevention
  - implementing services and principles of justice for victims
  - implementing evidence based approaches to solving crime problems.

**For further information on:**

- for what does and does not work and how to implement it - Waller, Irvin 2006, *Less Law, More Order: The Truth about Reducing Crime*, Praeger
- for support and protection of victims – Waller, Irvin 2004, *Crime Victims: Doing Justice to their Support and Protection*, HEUNI
- what works to reduce crime for Canada - contact [irvin.waller@uottawa.ca](mailto:irvin.waller@uottawa.ca) – [www.prevention-crime.ca](http://www.prevention-crime.ca)

# **The Divergent Organized Crime of Eastern Europe and the Soviet Successor States**

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The crime problems of Eastern Europe and the successor states of the former Soviet Union have diverged dramatically since the Fall of the Berlin Wall and the collapse of the Soviet Union. Crime and corruption in Eastern Europe, unlike in most of the successor states of the USSR, remains a serious problem but not a serious threat to national development. In the Slavic states of the former USSR, the Caucasus and Central Asia, crime is more than a problem of crime commission. Criminals have deeply penetrated the state, making crime a major determinant of political, economic and social life.

The organized crime problem that many thought would be a transitional phenomenon in post-Communist states has proved to be more enduring. Although it is a lesser concern in Eastern Europe than in the former USSR, it remains a key concern for the European Union as some Eastern European countries that have entered the EU have high levels of organized crime and corruption. The unresolved conflict in parts of the former Yugoslavia remains an enormous source of crime for much of the rest of Europe. Bosnia and parts of its neighboring states provide key transit routes for crime and the criminals. The Balkan route is a key conduit of drugs, arms, and people into Western Europe. The same route is used by Post-Soviet criminals to transport stolen cars, pharmaceuticals and consumer goods to the markets of the Black Sea region and the former USSR.

The problem of crime remains intractable in most of the Soviet successor states and is still severe in the Baltics. The crime groups from the post-Soviet states have globalized and have established working relationships with crime groups in Western Europe, North and South America and Asia. Therefore, much international cooperation is needed to address this

phenomenon and coordination among governments and law enforcement bodies is limited.

Aggravating the problem is the absence of political will in most Soviet successor states to address crime and corruption. This is consequence of pay offs by crime groups to officials in both the state structures and both national and regional legislatures. In some of the most criminogenic regions, crime groups have penetrated the police or are elected to political office. Furthermore, oligarchs who are key actors in many national economies often have close ties to organized crime who defend their financial investments in transport, heavy industry and the energy sector.

In contrast to the countries of Eastern Europe, where democratic governments are functioning, most of the Soviet successor states have more authoritarian governments with a lack of accountability and transparency. Without checks on government, there is little capacity for these states to counter the pervasive organized crime and corruption. The curbs on media and civil society in most Soviet successor states limit the checks on corruption and organized crime.

## **Divergence of the post-socialist countries**

Since the destruction of the Berlin Wall in 1989, there has been an enormous divergence in the countries of the former socialist bloc. This divergence has occurred in the political arena, economic policy and in the social welfare of these countries.

No greater contrast can be found than that between an Eastern European country such as Poland whose standard of living is approximately half of that

of the long standing members of the European Union members with that of Tajikistan where citizens earn as little as \$20 a month. The long term Civil War in Tajikistan has left many youthful citizens illiterate and one-third of households are forced to send members abroad into difficult work conditions to provide for basic family needs. In contrast, educational levels in the recent accession states of the EU are high and many universities are rapidly rebuilding international links and re-establishing high educational standards.

Enormous differences exist between the professionalism of the security and the police in post-socialist countries. Polish border guards, trained by EU trainers, seek to limit smuggling across their borders whereas the ill-equipped Tajik border patrol is incapable of stopping the severe drug flows that cross its borders from Afghanistan. In the deteriorating border posts on its frontiers, adequate food supplies are constantly in question. The guards are no match for the criminals who use satellite phones to move their valuable cargo without detection<sup>1</sup>.

The same contrast is seen in the quality of policing. Enormous efforts have been made by the EU to provide training for the police in accession countries. In contrast, many police in Soviet successor states receive low wages that are already an inducement for corruption. The preconditions facilitating corruption are aggravated by the enormous wealth of some crime groups that see payments to the police as just a cost of business. In some parts of Russia, the police have literally merged with the criminal organizations. Prizewinning research conducted among the police and criminals in Kazan revealed that the major criminal organization divided its activities among those who served within the police and those who functioned outside (Salagaev 2007). This problem is most acute in regions where the criminals have the greatest political and economic influence.

## Political divergence

Most of the countries of Eastern Europe have made dramatic transitions from the socialist era, jettisoning their formerly corrupt authoritarian political systems, instituting multi-party systems and fair competitive elections.

There are several important reasons for the political divergence. The countries of Eastern Europe and the Baltic states were not part of the socialist system for as long as the twelve other Soviet successor states. Many of the countries of Eastern Europe resisted Soviet rule and the norms of the socialist system were never as fully integrated into these countries. Eastern European countries aspiring to join the affluent and democratic European Union were motivated to change. Moreover, these countries faced fewer obstacles to adapt to the norms of the European Union as there was less of a legacy of Soviet rule. Moreover, many welcomed foreign assistance in developing accountable legal institutions and improving standards and ethics for law enforcement and judicial personnel.

In contrast, many of the Soviet successor states have not only failed to democratize but their current governments are more authoritarian than the USSR at the close of the Soviet period. This problem is particularly acute in Central Asia but this situation is not confined to these countries as there is an absence of free and competitive elections, free media and independent judiciary in almost all the Soviet successor states<sup>2</sup>.

Unlike in Eastern Europe, a new leadership distinct from the Soviet period did not emerge in most Soviet successor states. Dissidents and political opponents of the Soviet era, did not assume leadership positions in the post-Soviet states. Nor did émigrés return to take key positions as occurred in the Baltic states. Most people who presently rule in Soviet successor states emerged from the Party, komsomol

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<sup>1</sup> Visit by the author to Tajik border in September 2006.

<sup>2</sup> See Freedom House reports, [www.freedomhouse.org](http://www.freedomhouse.org), accessed May 21, 2007.



or security apparati of the Soviet era. The corrupt and criminalized elites remained in power in most of Soviet successor states, in contrast with the first accession countries admitted to the EU from Eastern Europe. Crime groups in parts of Russia, Ukraine, the Caucasian and Central Asian states assume key roles in law enforcement, legislatures and even in local and regional governments<sup>3</sup>. In contrast, the president of Lithuania was ousted before the country's admission to the European Union because of his ties to Russian organized crime<sup>4</sup>.

Most of Eastern Europe, with the exception of the former Yugoslavia, have been spared the violent political conflicts that have affected so many of the Soviet successor states including Moldova (Transdnistria conflict), all of the Caucasian countries (Nagorno-Karabagh, Abkhazia and Ossetia), Chechenya in Russia, Tajikistan and Uzbekistan (Ferghana region). Conflict regions were often left with criminalized ruling warlords assuming political power. These conflicts have caused an increase in crime and corruption as has been noted in other regions of the world. In many cases the grievance has been maintained by the crime group which profits from the continuation of the conflict. These unresolved conflicts have proved highly criminogenic. Therefore, the phenomenon that has been identified elsewhere in the world where the greed of the participants in the conflicts may be more relevant than the initial grievance also pertains to many Soviet successor states (Berdal & Malone 2000). Transdnistria remains an epicenter of human smuggling, serious drug flows cross Tajikistan and Uzbekistan and the conflict regions of the Caucasus remain important centers of smuggling not only of consumer goods but also of arms and drugs<sup>5</sup> (Cornell & Swanstrom 2006; Kukhianidzem et.al. 2007).

## Economic divergence

During the socialist period, most citizens in Eastern Europe and the USSR lived at a basic level of existence. Although Communist Party elites enjoyed significant privileges and higher standards of living, in general neither their homes nor overall standard of living could be defined as lavish. The social and economic status of the citizens of the former socialist world have diverged significantly. In the recent accession states of Eastern Europe and the Baltics, there is the re-emergence of a noticeable middle class. Even though there are some individuals who have become rich in the transitional period, there are not the enormously wealthy oligarchs of Russia, Ukraine or the rich clans of the political elite of Azerbaijan and Kazakhstan. In most of the Soviet successor states, members of the party and komsomol elite of the Soviet era appropriated enormous natural and industrial wealth for themselves through the privatization process. This is the rare case where the survivors of a failing political system were able to secure their political power after the political collapse through the appropriation of huge economic resources by illegal or semi-illegal means.

Organized crime groups have been major beneficiaries of state privatizations in many states of the former Soviet Union acquiring control of real estate, markets, and even important industrial sectors such as the Uralmash crime group in Russia (Handelman 2005) (Varese 2005). Organized crime operates on a notable scale in all of the former socialist countries of Eastern Europe. Yet only in parts of the former Yugoslavia such as in Bosnia or Kosovo do crime groups assume such a central role in political and economic life as they do in the Soviet successor states (Montanaro-Janovski 2005).

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<sup>3</sup> The arrest of the mayor of Vladivostok who was a member of a criminal gang is evidence of this. He was elected to office even though the citizens knew he was a criminal. See [www.crime.vl.ru](http://www.crime.vl.ru), accessed May 21, 2007 for a discussion of the situation.

<sup>4</sup> "Lithuania Replaces Impeached President", [www.rferl.org/featurearticle/2004/5/E&AA4158-CB15-45A4-9FF2-70C8B08BDC31.html](http://www.rferl.org/featurearticle/2004/5/E&AA4158-CB15-45A4-9FF2-70C8B08BDC31.html), accessed May 21, 2007.

<sup>5</sup> See Frontline video Sex Slaves, [www.pbs.org/wgbh/pages/frontline/slaves/](http://www.pbs.org/wgbh/pages/frontline/slaves/), accessed May 21, 2007.

There is an enormous economic disparity among the former socialist states. Many countries in Eastern Europe have improving social indicators and Estonia has recently enjoyed an annual growth rate of about 10 percent. In contrast to this, some successor states have seen rapid declines in their standard of living and have experienced significant economic decline since the collapse of the USSR. The countries of Tajikistan, Kyrgyzstan and Moldova have experienced the most acute decline. The social indicators of Tajikistan are now on the level of some of the poorest countries of Africa.

Throughout the former Soviet Union, corruption is a major impediment to economic investment. Indicators of corruption developed by Transparency International and the Davos World Economic Forum reveal that the countries of the former Soviet Union are among the most corrupt in the world whereas those of Eastern Europe have levels of corruption that are significantly lower<sup>6</sup>. Under these circumstances, legitimate foreign investment is rare and many of the oligarchs choose to invest their capital overseas rather than within their own countries<sup>7</sup>.

## Divergent crime problems

Research conducted on rates of victimization and other comparative indices of crime reveal that high rates of violence remains a continuing problem in the Soviet successor states, particularly Russia which has among the highest homicide rates in the world (Andrienko, Shelley 2005; Pridemore 2001). In contrast, in many of the Eastern European countries, crime rates do not diverge significantly from the countries of Western Europe<sup>8</sup>.

Many new forms of crime have appeared since the collapse of the socialist system. The collapse of the social welfare protections of the Soviet era, the disappearance of strict border controls and the decline of authoritarian police controls have resulted in crimes not previously known or not known on a large scale. The most notable of these are human trafficking, smuggling, as well as large scale drug trafficking of heroin and synthetic drugs.

The World Bank now estimates that Eastern Europe and the former USSR is the third largest region for migration in the world. Much of this migration is illegal, Russia is estimated to have 10 million illegal migrants out of population of 140 million (Tiuriukanova 2007). Ukraine also notes a significant illegal migrant population not only from the Soviet successor states but also from China (Popson 2007).

Initially, human trafficking was almost always for the purposes of sexual exploitation. Victims were transported primarily outside of the former socialist countries to markets in western Europe, Asia and as far as North and South America. An exception, however, existed in the war torn Balkans where women were imported from Russia, Moldova and Ukraine to satisfy the demand created by peacekeepers (Mendelson 2005).

Human trafficking for labor exploitation now eclipses sexual trafficking in terms of the numbers of people involved. Extensive labor trafficking exists in the more affluent Slavic countries of the former USSR that draw migrants from Central Asia and the Caucasus as well as from China, India, and Vietnam. Workers from the Baltic countries find themselves as trafficked laborers in western Europe<sup>9</sup>.

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<sup>6</sup> See Jan van Dijk, "Mafia Markers: Measuring Organized Crime and Its Impact on Societies," forthcoming in Trends in Organized Crime.

<sup>7</sup> Note the large number of Russian investors in London real estate markets as well as the investment of Abramovich in the sports team Chelsea.

<sup>8</sup> International Crime Victimization Survey, 1989-2000, [www.icpsr.umich.edu/cocoon/NACJD/STUDY/038003.xml](http://www.icpsr.umich.edu/cocoon/NACJD/STUDY/038003.xml), accessed May 21, 2007.

<sup>9</sup> See research of Anna Markina for International Organization for Migration in Estonia, [www.iom.int/jahia/page/829.html](http://www.iom.int/jahia/page/829.html), interview with scholar May 8, 2007.



In the receiving countries of the former USSR, migrants are often victims of ordinary and hate crime by local populations. In contrast to the illegal migration observed in western Europe, illegal migrants are not vectors of crime and are consequently not disproportionately represented in prisons. Despite the fact that migrants are more often victims rather than perpetrators of crime, the migrants are not assimilated and there is a rise of anti-immigrant feeling in Russia and to a lesser extent in Ukraine. Kazakhstan, in contrast, is trying to find ways to regularize this migration.

Recent years have seen an enormous growth in drug problems along trafficking routes from Afghanistan to Western Europe. The drug route out of Afghanistan has changed significantly in the last 5 years. Once Afghan drugs were moved overwhelmingly along a Southern route that included Iran. Now a significant share of the increased drug crop traverses Slavic and Caucasian states. The movement of drugs is aided by poor border controls and corruption. The imbalance between the significant resources available to the criminals and the limited resources available to the states helps explain the proliferation of the more northerly drug route.

The absence of prevention and treatment programs in non-EU states compounds the growth of the crime problem. Addiction grows among disadvantaged but also among the children of the affluent middle class and elite who consume both synthetic and poppy based drugs (Shelley & Cornell 2006). At present in Russia, there are 6 million addicts out of a total population of 140 million. This is a greater proportion of abusers than in the U.S. that is considered to have the largest demand for illicit drugs. This phenomenal growth in abuse has occurred within a short period of time.

## Conclusions

Organized crime remains a serious and enduring problem for the Soviet successor states. It is more than a crime problem but is a key determinant of the political, economic and social development of most Soviet successor states. In contrast, many of the countries of Eastern Europe, particularly those who have joined the European Union have made much more of a commitment to combat organized crime.

The Soviet system collapsed. Often the states of the USSR have limited contacts but the globalized criminals have exploited the decline of borders and state capacity to address their illegal activity. With their international ties, educated and violent personnel, there is little prospect that their crime is a transitional phenomenon. Their criminal activities will be a major determinant of the development of their home countries and will have international consequences. There is little prospect for a significant change in this phenomenon in the near future.

The countries of Eastern Europe still face serious problems of organized crime. This will remain an important challenge for the European Union in the coming decades. But with political will, a sustained commitment to address this problem and significant resources, it may be possible to reduce the pervasiveness and influence of Eastern European organized crime.

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# Organised Crime and its Prevention in Europe

## A Practitioner's Commentary

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Effective prevention and tackling of organised crime requires effective implementation of the strategies. The implementation of the strategies and in particular the concrete instruments derived from the strategies, are vital in the assessment of their impact. So far the European Union has adopted numerous instruments in order to strengthen the implementation of the strategies and in order to facilitate the cross-border operative law enforcement co-operation between the Member States.

How effectively do these top-down instruments affect the practical law enforcement co-operation at the practical level? The question is twofold: first how well are the EU strategies giving answers to the problems and difficulties confronted in the field and second how well the top-down approach fits in the law enforcement practices and objectives of the practitioners - law enforcement authorities doing the practical field work.

The starting point will be the objectives of EU article 29 (EU treaty) which want to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial co-operation in criminal matters.

That objective shall be achieved by preventing and combating crime through a closer cooperation between police forces, customs authorities and other competent authorities in the Member States, both directly and through the Europol and with a closer cooperation between judicial and other competent authorities of the Member States including cooperation through Eurojust.

In order to achieve this objective the EU ministers have adopted several instruments, among others:

- European Police Office (Europol) + Europol Information System (EIS)
- European Judicial Cooperation Unit (Eurojust)
- The European Agency for the Management of Operational Co-operation at the External Borders (FRONTEX)
- The European Police Chiefs Task Force (EPCTF)
- European Anti-Fraud Office (OLAF)
- The Schengen Agreement + Schengen Information System (SIS)
- etc.

In addition, several common actions are adopted at the Council level with the aim to strengthen the co-operation among the Member States on areas such as:

- The Europol Organised Crime Threat Assessment on (OCTA), including the Council Conclusions based on OCTA;
- COSPOL - projects:
- The Framework decision on Joint Investigation Teams (JIT), 2002;
- The Framework decision on European Arrest Warrant (EAW), 2002;
- EU Convention on Mutual Assistance (MLA 2000);
- etc.

There have been, in the third pillar frames, the mutual evaluation concept assessing how well certain areas of the third pillar instruments have been

implemented and what best practices could be identified. The mutual evaluations have been very supportive instruments in order to compare the level how well the Member States have adopted the instruments in question. However, the mutual evaluation system has not necessarily had the view which would benefit the field law enforcement worker.

This practitioner's commentary, therefore, gives some critical views and assessments how the Europol and the concept of the Joint Investigation Teams (JIT) might contribute to the law enforcement co-operation at the field level in tackling organised crime.

The basic question at the practitioner's level is how these instruments have supported their everyday work when fighting organised crime? How effectively do the EU instruments affect the law enforcement co-operation at the practical level? How well are the EU strategies giving answers to the problems and difficulties confronted in the field? How well could the EU - instruments contribute to the common or joint actions of the law enforcement authorities across the Member States?

There seem to be numerous questions where there are still no correct or comprehensive answers. Maybe there should be more empirical studies in order to get more information about the practical level implementation of the instruments and also to get more information about the impacts of the instruments.

Just to give more detailed examples about the influence to the practical level law enforcement co-operation by the EU instruments I would like to refer to the Europol and the concept of the Joint Investigative Teams. Both initiatives seem to be very operatively oriented and by that way very supportive to the operative work at the Member States level.

In Europol there are liaison officers (LO) seconded by the Member States. The LOs seconded to Europol are representatives of their national law enforcement agencies. As to the LOs Europol can give also other relevant support such as:

- Facilities (meeting rooms, interpreters, IT-support, etc.);
- Operational analysis in support of operations;
- Threat assessments and crime analysis;
- Expertise and technical support for investigations and operations carried out within the EU and
- The Europol Computer System (TECS: an information system (IS), an analysis system, an index system).

Europol can also participate in JITs (since 03/2007) and is allowed to ask the Member States to conduct and co-ordinate investigations in specific cases.

Practical experience in Finland has shown that the potential of the Member States LOs in Europol are most widely used among all of the Europol services by the national law enforcement agencies. The facilitating services, such as the meeting rooms, interpreters, IT-support, etc., as well as the analytical support for the operations, seem also to be used quite well.

The real role of Europol concerning the JITs is still developing.

On the whole, the potential of the present Europol seems to be still inadequately used by the Member States.

Then, if assessing other operative instruments such as the Joint Investigative Teams, the picture seems to be totally different. The information received from the LOs of the Member States in March 2007 shows that the total number of JITs implemented by the Member States was about 20, which seems to be a very low number (from 2002 when the concept of the JITs was adopted in EU).

The statistics show that there have been JITs between:

- France - Spain 9 (6 terrorism)
- Finland - Sweden 2
- The majority of JITs in Member States are single cases

- The majority of Member States have had no formal JITs at all.

The joint or parallel investigations, if not formalized as JIT, are not included in the statistic.

The basic question is why the situation with the JITs is like the statistics indicate. There seem to be several reasons for that:

- The Framework Decision on JIT has been operational only since 1.1.2003 - delays in national implementation;
- Differences in national implementation - sometimes the implementation of the EU-instrument seems to be more limited at national level (e.g. information exchange);
- The EU priorities/instruments are not known to the law enforcement authorities of the Member States;
- The national interests are put in first place before the EU-priorities - wider common EU-interests are not on the front line of the everyday thinking of the law enforcement authorities, and
- The poor information flow from Member States to Europol's analysis databases, AWF, and COSPOL - projects.

There could also be practical reasons such as:

- The formal procedure setting up the JIT is supposed to be too heavy and time consuming;
- JITs are supposed to be far too expensive - uncertainty on who bears the costs;
- Uncertainty on how the evidences collected could be used in another state;
- Cultural differences and insufficient language skills;
- Hindrances caused by the differences of national laws, and
- Lack of mutual trust - the role and interests of all participants are not known.

There could be also other means for the law enforcement authorities to solve the practical problem which seem to be more attractive or more practical in the individual case to be used instead of the EU instruments, e.g. parallel investigations.

The use of the common EU instruments, in order to contribute more effectively to the practical law enforcement work, should support more effectively the exchange of the experiences and good practices already applied in the other countries' JIT -concept. It should also be assessed if joint instruments could be developed, such as:

- Model JIT-agreements;
- Agreement on the management of the JIT (e.g. team leader/s);
- Agreement on the intelligence gathering and the role of Europol/AWF in it;
- Agreement on how costs should be divided and
- Agreement on the role of Europol support.

Also a handbook/guide should be prepared for practical issues; training for the leaders and members of the team should be provided and also the knowledge should be delivered, needed to benefit from EU funding possibilities (ref. Commission Funding Programme: Prevention of and Fight against Crime 2007-2013).

It is quite obvious that the project based, result oriented, intelligence led, multidisciplinary law enforcement co-operation will be and should be the future way for EU law enforcement in combating serious and organised crime. Europol and JITs, when implemented in practice, have a great potential to gradually bring up the culture and the way of actions of the law enforcement societies in EU Member States towards a more effective, comprehensive and European minded combat of organised crime.



# The European Organised Crime Threat Assessment: an Outsider's View

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## Introduction

Organised crime is a key concern within the European Union (EU) and the explicit justification for many actions taken and special services being set up and staffed. The phenomenon—or rather, the construction of it—also has a great influence at the legislative level. Indeed, a link with organised crime opens the door to special legislation in which a number of safeguards can be set aside. The underlying principle is that organised crime necessitates a harder and more drastic response from the government so that exceptions to the normal procedural rules are acceptable and even necessary.

The EU advocates a *knowledge based* policy making process founded on an intelligence cycle in which policy decisions are based on facts and sound analysis. In the EU, this knowledge based policy making on organised crime is vested on the existence of EU organised crime assessments.

In 2006, the European Union introduced a new instrument to report on organised crime: the European Union's Organised Crime Threat Assessment (OCTA). This instrument was expected to mark a new approach to the way in which Europol, the European institutions and the Member States would think and operate in the future and is considered an important step into a change of paradigm in policing towards a more pro-active and forward looking approach to fight organised crime. (Europol, 2006)

This paper analyses to what extent the first OCTA meets these expectations and can be considered as a useful and reliable tool for policymakers. The paper focuses on the knowledge base for policy making and what is or can be known about this by the general

public. It explicitly takes the “outsider's view” to test the methodological base, the quality and the relevance of the information of the first OCTA. Information and sources that are not accessible to the public are therefore not used.

## Background

In November 1993, the European Council decided that an annual strategic report on organised crime was to be issued. The aim of this report would be to provide insight into the organised crime phenomenon within the European Union. In November 1994, the Council accepted the production of this *Organised Crime Situation Report* (OCSR) to be dependent upon the exchange and analysis of information by the member states. It was therefore agreed to set up a common mechanism for the systematic collection and analysis of information. This mechanism was used for the 1994 and 1995 EU situation reports. In 1997, the basic methodology was further developed (ENFOPOL 35) and the new methodology was applied for the first time in the 1997 report. In the meantime, the European Council in Dublin – 13 and 14 December 1996 – underlined its absolute determination to fight organised crime and stressed the need for a coherent and coordinated approach by the European Union. It decided to create a *High Level Group on Organised Crime* tasked with drawing up a comprehensive Action Plan containing specific recommendations, including realistic timetables. The work of the High Level Group resulted in the *Action Plan of 28 April 1997 to Combat Organised Crime*. This Action Plan set up a *Multidisciplinary Group* (MDG) on organised crime which was intended especially to comprise judicial authorities and police representatives and to stimulate an integrated approach

to combat organised crime.<sup>1</sup> A *Contact and Support Network* (CSN) was established to examine the issue of measuring organised crime. Tasked with the further development of the methodology and involved in producing the annual EU Organised Crime Situation Report, the purpose of the network was to ensure the quality of the reporting process and of the report's content. In February 1999 – under the German Presidency – discussion resumed on improving the methodology. A document was produced, proposing three steps towards further development of the European OCSR. These steps, which were intended to provide a long-term perspective, were the following:<sup>2</sup>

- a generally recognised data collection mechanism and a uniform collection of certain basic data in all member states (which would contribute to the harmonisation and standardisation of the reports);
- the collection of qualitative data/material to furnish a more exact and detailed description of organised crime;
- the use of a threat assessment methodology describing the conditions that foster crime, as well as the causes of organised crime.

This document did not initially give rise to specific action on the issues proposed. In 1999 and 2000, however, the Swedish delegation announced the intention of Europol and the MDG to change the structure and composition of the OCSR. According to the Swedes, the focus of the report should shift from the description of current and past situations to assessment of threats and risks related to future developments in crime and their implications for law enforcement within the EU. Sweden therefore proposed that the organised crime situation report should be an annual strategic report produced for the purpose of planning, within the EU and the member states, by the Police Chiefs Task Force (PCTF) and Europol. The aim of the Swedish proposal was to make the purpose

of the report clearer to its users so that it would facilitate the collection of national contributions and provide a better foundation for the formulation of conclusions in the overall EU report, which would result in better and clearer recommendations.<sup>3</sup> Based on the Swedish proposal, Europol examined its OCSR and decided to re-orient the report to a *threat assessment* based on OCSR and emerging phenomena. According to Europol, an overview of this kind would be complementary to those produced by the Member States. If the Member State report became more threat or future oriented, Europol stated, the two mechanisms would support each other to produce an even better overview of the situation in the EU, and the result would be a vital document for prioritisation, planning and common action within the EU. According to Europol, the current OCSR went beyond the mandate areas of Europol and therefore raised problems in assessing data quality because perceived OC priorities by the Member States and Europol might vary.

On March 13, 2001 the Commission services and Europol issued a Joint Report entitled '*Towards a European Strategy to Prevent Organised Crime*'<sup>4</sup> which proposed the development of an information collection plan reflecting a knowledge-management process from a multidisciplinary perspective. In line with the prior Swedish proposal, the Joint Report proposed that explanatory annual reports should be compiled, rather than the traditional descriptive documents. Later in 2001, and on the basis of the Swedish proposal, the CSN discussed a possible change to the structure of the EU OCSR and recommended to the Multidisciplinary Group that the OCSR should be converted into an annual strategic report. Such a strategic report would be used for planning purposes, and it would focus on assessment of relevant threats and risks as well as on recommendations related to combating and preventing organised crime. As a consequence of the shift to a more future-oriented report, it was recommended that the name of the OCSR should be changed. Given that

<sup>1</sup> Council of the European Union, 6204/2/97, ENFOPOL 35, Brussels, 21 April 1997

<sup>2</sup> Council of the European Union, 8469/99, CRIMORG 55, Brussels, 19 May 1999

<sup>3</sup> Council of the European Union, 14942/00, CRIMORG 173/ CATS 72, Brussels, 22 December 2000

<sup>4</sup> Council of the European Union, 7825/01, CRIMORG 34, Brussels, 20 March 2001.



the report took a three-year perspective, had annexes describing new trends and tendencies, and put forward stronger recommendations to its recipients, it could no longer be called a 'situation' report. Consequently, it would simply be called the Organised Crime Report, OCR: in short, the OCSR should become more threat, trend, assessment, and future oriented; it should use appendices so that it became a timely product, and it should become more 'customer' oriented by allowing the Heads of the National Units (HENUs), the PCTF and other decision-makers to have their say in its overall structure and orientation.

In the autumn of 2001, the Belgian Presidency proposed an action plan to convert the OCSR into an annual strategic report for planning purposes with the primary focus on assessment of relevant threats and risks, as well as on recommendations related to combating and preventing organised crime (CRIMORG 133).<sup>5</sup> The basis was to be a conceptual model, discussed in formal and informal CSN meetings and proposed by the Belgian Presidency, which comprised analysis of traditional and non-traditional elements: environment analysis, organised crime group analysis, analysis of counter measures developed by criminal organisations, as well as scans of the legal and illegal markets. Attached to this action plan was a first inventory of the existing approaches and methodological tools, as well as a time schedule for the plan (starting with the organised crime groups). The aim of the action plan was to determine and schedule the various measures required to study all the identified aspects of organised crime. It dealt with the preparation of the OCR and the gradual integration of methodological improvements area by area. As a general rule, the new methodological approach would be adopted in the

following stages: identification of sources by consensus, consideration of a threat and risk assessment model, agreement on a general model, agreement on carrying out analysis of the topic identified, production of a first revised report, feedback from customers on the first report, revision, evaluation and recommendations for future development (Verpoest & Vander Beken 2005).

The second multi-annual programme, the Hague Programme,<sup>6</sup> has built upon the progress and experience of the former 5 years and reaffirms the importance of an area of freedom, security and justice as a high priority on the EU-agenda. This programme states that Europol must replace the crime situation reports by yearly threat assessments on serious forms of organised crime, which will be used by the Council to establish yearly strategic priorities. These, in turn, will serve as guidelines for further action and will be the next step towards the goal of setting up and implementing a methodology for intelligence-led law enforcement at EU level. The Hague Programme explicitly calls for a forward looking approach to fight organised crime in a more pro-active than in a re-active manner.

In order to efficiently execute the Hague Programme, the Commission identified 10 priorities on which it felt efforts should be concentrated, one of them being the 'developing of a strategic concept on tackling organised crime'.<sup>7</sup> On 2 June 2005, a more specific communication about '*developing a strategic concept on tackling organised crime*' was made,<sup>8</sup> pleading for the development of a European Criminal Intelligence Model (ECIM) of which an European OC threat assessment (OCTA) by Europol should be the key element.

<sup>5</sup> Council of the European Union, 14959/1/01, CRIMORG 133, Brussels, 10 December 2001.

<sup>6</sup> Council of the European Union, 16054/04, The Hague Programme for strengthening freedom, security and justice in the European Union, 13 December 2004.

<sup>7</sup> Communication from the Commission to the Council and the European Parliament, The Hague Programme: 10 priorities for the next five years. The partnership for European renewal in the field of freedom, security and justice, *OJC* 236, 24 September 2005.

<sup>8</sup> Communication from the Commission to the Council and the European Parliament, COM(2005)232 final, Developing a strategic concept on tackling organised crime, 2 June 2005; Council of the European Union, 9778/2/05, Council and Commission Action Plan implementing the Hague Programme on strengthening freedom, security and justice in the European Union, 10 June 2005.

On 3 October 2005, the Council concluded that from 1 January 2006 onwards, Europol was to produce an Organised Crime Threat Assessment (OCTA) in place of its annual Organised Crime Situation Reports,<sup>9</sup> in order to support the further development of a common intelligence model, by Europol and the Member States.

In 2006, the first OCTA was presented<sup>10</sup> and policy conclusions drafted by the Council of the European Union.<sup>11</sup>

### What is it (for)?

The OCTA has the clear ambition to be used in an intelligence cycle to feed the European decision making processes in the fight against organised crime. The OCTA does not aim to provide figures and numbers of criminal groups, but qualitative and forward looking statements (knowledge) about the challenges this phenomenon poses: “*Whereas the OCR was primarily focusing on the description of the OC situation in Europe, the OCTA puts an emphasis on the qualitative assessment of this complex and multi-faceted phenomenon. The OCTA, being a forward-looking document, will help decision-makers identify strategic priority areas in the fight against serious and organised crime and to initiate an intelligence process to define operational targets.*” (Europol 2006, 4)

The OCTA explicitly claims to be a *threat assessment*. Although many definitions and ideas about the definition of “threat” exist and are used, it does fit in a larger conceptual *risk* assessment framework. Risk can be broadly defined as the chance of something happening that will have an impact on objectives. It is measured in terms of *likelihood* and *consequences* (Black et al. 2001 – see also Di Nicola 2006). However, risk as a working concept is defined depending on the agency and its requirements. For some agencies, risk

definitions coalesce around the likelihood and impact of loss, injury, disadvantage or destruction or exposure to hazard or danger. For others, in more neutral mode, risk definitions focus on the chance of something – positive and/or negative – happening that will have an impact on objectives. Those agencies tasked with the responsibility of public and national security (i.e., those that act in a protective capacity) generally rely on the negative aspect of impact, and thus the likelihood of events or actions is often the defining variable (Vander Beken 2004: 483). Organised crime threat assessments are thus assessments that measure the *likelihood* of criminal activity. Their main focus is on the *intent* and *capability* of the criminal actors involved, not on the *consequences* (impact, harm) this might cause (impact assessments). It is also possible, apart from threat and/or impact, to study the *vulnerability* of the (legal) environment of (organised) crime and assess to what extent capable and willing offenders (threat) have the *opportunity* to commit their acts and cause harm to society (impact). Given the profit driven nature of organised crime, vulnerability studies in organised crime assessments could address the vulnerability of economic sectors (e.g. transport, waste disposal, see Vander Beken 2005a).

A closer look at the content and ambitions of the OCTA shows that it is of a very hybrid nature. On the one hand it seems a threat assessment when it tries to make statements about organised crime groups and criminal markets. On the other hand, it carries elements of an impact assessment since the evaluation of the level of threat is sometimes directly connected to its impact on society. Moreover, the analysis of *key facilitating factors* (like the misuse of the road transport sector) contains elements of a vulnerability study.

<sup>9</sup> Council of the European Union, 10180/4/05, Council conclusions on intelligence-led policing and the development of the Organised Crime Threat Assessment (OCTA), 3 October 2005.

<sup>10</sup> Europol, EU Organised Crime Threat Assessment 2006, public version.

<sup>11</sup> Council of the European Union, 10181/06, CRIMORG 94, Brussels, 6 June 2006.

## Is it reliable?

There is very little public information and transparency about the methodology used for the OCTA. Even for scientific purposes, Europol and the Council seem to be reluctant to disclose anything about “the making of” the OCTA report (See Klerks 2007, 101). This makes it hard to evaluate the reliability of the assessment. But it certainly is not very reassuring to the public to find out that there seem to be secrets about the methodological foundation of the report (van Duyne 2007, 127).

We do, however, know a lot about how the former organised crime reports were made and related problems. It has been described earlier that the Europol report, in these times not “owned” by Europol as the OCTA now, heavily relies on contributions made by the Member States. We know that, notwithstanding many efforts and discussions, the quality and reliability of these Member States data differ to a large extent (van Duyne 2007). There is data of different nature, taken from different databases, resulting from different approaches (qualitative and quantitative). Moreover, this data is sometimes (politically) filtered at Member State level and brought together in a “European” report subject to (political) negotiation acceptable to all Member States (Vander Beken et al. 2005). This has been described as an annual ritual dance with lots of smoke and shady procedures to decide on the “truth” about organised crime (Vander Beken 2005b).

It is also known that the OCTA claims to have a new methodology but that this methodology is considered far from perfect. Reference is made to the need for clearer indication of the sources, the evaluation of information originating from these sources and the way the conclusions are drawn (Council Conclusions 2006, see footnote 11). Further, we are sure that the OCTA, although an “owned” Europol document now, still heavily relies on information provided by the Member States and is still “negotiated” with them. Many of these Member States are not likely to be ready to deliver information about threats (Vander Beken et al. 2005)). In any case, there are no signs that Member States are fundamentally changing their own reporting

system *because of* OCTA. On the contrary, new types of organizations (e.g. the harm oriented Serious Organised Crime Agency (SOCA) in the UK – Harfield 2006) and organised crime (threat) assessments emerge in Member States (Dutch National Threat Assessment – Klerks 2006, German BKA-reports – von Lampe 2004).

As an outsider, we do (and may) not know how exactly the OCTA is made. We know, however, that the conditions in which Europol has to draft the OCTA are not favorable to obtain good and reliable results.

## Is it meaningful and interesting?

According to the OCTA, the main threatening aspects of organised groups are, “*first, the overwhelming obstacles in dismantling them because of their international dimension or influence, and second, their level of infiltration in society and economy*” (Europol 2006, 5).

In that context, four *main categories of groups* have been identified: (1) Principally territoriality based, indigenous OC groups but with extensive transnational activities; (2) ethnically homogeneous groups with their leadership and main assets abroad; (3) dynamic networks of perpetrators whose fluid organisational setup make them less susceptible to conventional investigative techniques; and (4) outlaw motorcycle gangs and other groups based on strictly defined organisational principles without an ethnic component.

With a view to and in targeting the above groups, the following *criminal markets* should attract focused attention on the common EU level: drug trafficking, especially synthetic drugs, exploitation of trafficking in human beings and illegal immigration, fraud, Euro counterfeiting, commodity counterfeiting and intellectual property theft and money laundering.

Furthermore, OCTA highlights the following *regional patterns*: (1) South West Europe, in particular with regard to illegal immigration, cocaine and cannabis trafficking for further distribution in the EU; (2) South

East Europe, specifically with regard to heroin trafficking, illegal immigration and trafficking in human beings, aimed at the whole of the EU; (3) North East Europe with regard to highly taxed products aimed at the Nordic countries and beyond; (4) Particular transportation hubs, such as harbors and airports pertaining to the Atlantic region, used for the movement of various commodities to and from the EU, in particular drugs.

As an outsider, these conclusions make it hard to find out what the real threats are. It seems as if Europe is threatened by all kinds of (mostly non-indigenous) criminal groups, committing many types of profit driven crimes, regionally spread across Europe. As such, OCTA does not look like a sharp priority setting tool. With some creativity, such conclusions may justify nearly any policy decision.

Readers with some background in organised crime research (see e.g. Fijnaut & Paoli 2005) will probably not be very surprised by the OCTA conclusions. Many of the trends and threats described have been reported elsewhere before (van Duyne 2007, 124).

Positive is that, for the first time, a European organised crime assessment report contains elements of ranking and explicit statements of levels of threat (*highest threat, most threatening*). This is what is expected from a priority setting tool.

## OCTA and policy making

In June 2006, the Council of the European Union took conclusions, setting the EU priorities for the fight against organised crime (see footnote 11). These priorities are the following:

- *in South West Europe, attention should be paid to the impact of African OC groups in the field of trafficking of human beings, smuggling of illegal immigrants as well as drug trafficking, thereby promoting co-operation between, initially, French and Spanish law enforcement*

- authorities. African OC groups should be focused upon and their involvement in cannabis smuggling and further distribution into the EU.*

- *the focus in South East Europe should be on ethnic Albanian OC and its involvement both in heroin trafficking and distribution and in trafficking in human beings. This would promote co-operation initially between Italy, Slovenia and Greece and partners in the Balkan region.*

- *priorities in North East Europe should be focused on OC groups, including Russian speaking OC groups, primarily involved in commodity smuggling, promoting co-operation in the Baltic Sea region activities in the Atlantic region should be focused on the production of synthetic drugs by OC groups based in Belgium and the Netherlands and their ensuing distribution within the European Union and via Germany and the UK across the Atlantic into the US and Canada. This would promote co-operation between these countries and across the Atlantic.*

- *the fight against money laundering and illicit arms trafficking should be included in all of these priorities.*

These priorities strongly relate to the OCTA conclusions. The relationship between policy making and the analytical report is strong. But, as mentioned above, the OCTA conclusions are so general in nature that they allow for nearly “any” kind of policy in regard to organised crime. The policy consequences of the adoption of the OCTA conclusions are therefore limited. Many different policy decisions remain open and no doors are closed.



## Conclusions

The European Organised Crime Threat Assessment is an ambitious project in the framework of knowledge based policy making. In this paper the nature, quality and content of the OCTA 2006 have been discussed from an outsider's perspective, based on open source material.

Although the method behind the OCTA is not disclosed, problems related to the collection, reliability and compatibility of data have been identified. From its content, OCTA does not look like a specific threat assessment report, though it includes specific elements of this kind (e.g. ranking and some priority setting, discussions about capabilities of criminal groups). The conclusions of this first OCTA report are very general and diverse in nature and may support a variety of policy decisions.

These flaws related to method, quality of data, conceptual clarity and relevance do not allow to call OCTA the corner stone of a criminal intelligence model within the EU yet. But there is no way back. European citizens have the right to be informed about the (knowledge) base of what their policy makers do and decide in the fight against organised crime. From that perspective, there is a distinct need for more, but also for better "OCTA".

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